

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
March 2, 2022**

CALL TO ORDER: Chair McDonald called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

PRESENT: Commissioners Chair Dan McDonald, Vice Chair Steve Bradshaw, and Jeff Connolly

ABSENT: None

ALSO PRESENT: Civil Attorney Bill Wilson, Planning Director Milton Ollerton, Assistant Planning Director Jacob Gabell, Planner II Jason Johnson, Planner I Swati Rastogi, Planner I Amy Scott and Hearing Coordinator Jenna Crone

PUBLIC HEARING:

AMENDMENT & ZONE CHANGE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

File AM0018-20 & ZC0015-20 – Comprehensive Plan Map Amendment & Zone Change – Daum Construction, LLC is requesting a Comprehensive Plan Map Amendment from Agriculture/Forestry 10-20 to Rural Residential 5-10, and a Zone Change from Agricultural/Forestry-10 to Rural-5. The 160-acre property is currently zoned A/F-10. The project is located off Spirit Lake Cutoff Road in Section 27, Township 55 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission, at the December 16, 2021, public hearing, recommended denial of this file to the Board of County Commissioners. On March 2, 2022, the County Commissioners continued this file.

STAFF PRESENTATION: Staff Planner II Jason Johnson presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Jeremy Grimm, Whiskey Rock Planning + Consulting submitted Exhibit B (PowerPoint Presentation) and provided comments on the project and the surrounding area.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record: Norman Semanko, Attorney at Parsons Behle & Latimer; Marsha Stevens; Christine Lobb; Jeff Plumber; Dave Bowman; Sheryl Kins; Don Holland; Doug Gunter; George Gerthrig; Twilla Robb; Arlin Robb; Martha Wheeler; and Larry Kanuth.

Recess at 3:19 PM

Commissioners Chair resumed the hearing at 3:30: Patty Campitelli; Virginia Branham; Summer Cantrell; Asia Williams; Maureen Paterson; Doug Paterson; Dwayne Branham; Tom Lewis; Frank Geisler; Dan Rose; Rebecca Fuller; Wayne Martin; Jonna Plante; and Planning Director Milton Ollerton read a public comment submitted by Edgemere Grange.

APPLICANT REBUTTAL: Project Representative Jeremy Grimm responded to public comment regarding concerns over wildlife, traffic, fire and water.

STAFF REBUTTAL: Planner II Jason Johnson responded to public comments regarding the Comprehensive Plan.

Bill Wilson advised the Board to discuss the goals and objectives of the Comprehensive Plan amendment in their deliberations.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

Comprehensive Plan Amendment - Motion by the Governing Body:

MOTION TO DENY: Commissioner Bradshaw moved to deny this project, File AM0018-20, requesting a comprehensive plan amendment from Ag/Forest land to Rural Residential, based upon the reasons stated during the deliberation. These reasons include that additional information is needed on fire access and safety and traffic on Spirit Lake Cutoff, as the road may be beyond original design capacity; and that the sub-10-acre zoned land adjacent to the subject land was not a legal plat and should not factor into the consideration of this case. Additionally, the proposal was found to be inconsistent with the Bonner Comprehensive Plan, Agriculture Component, Objectives & Policies, #1; is inconsistent with the Bonner County Comprehensive Plan, Implementation Component, Transportation, Goals and Objectives; and is inconsistent with the Bonner County Comprehensive Plan, Implementation Component, Community Design, Goals and Objectives. The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Commissioner Bradshaw further moved to adopt findings of fact in furtherance of the deliberations as presented, 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 action that could be taken, if any, to obtain the comprehensive plan amendment is to: 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. Commissioner Connolly seconded the motion.

VOTED upon and the Chair declared the motion carried. **ROLL CALL VOTE**

Commissioner McDonald	Nay
Commissioner Connolly	Aye
Commissioner Bradshaw	Aye

Comprehensive Plan Amendment Findings of Fact

- The parcels are unplatted and ~160 acres in total size.
- County GIS states that Spirit Lake Cutoff is a secondary arterial is County owned and maintained and is paved with hot mix asphalt.
- The site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- The site does not contain mapped wetlands. (USFWS)
- The parcels are not within a flood zone.
- The site has no mapped water bodies or watercourses.
- The soil types on the site are considered prime farmland or prime farmland if irrigated.
- There is no water or sewer service on the site at this time, an individual well and septic would be required.
- The site is served by Spirit Lake Fire, Avista, Bonner School District #83 and Bonner Co Ambulance District.
- The parcels are surrounded by Ag/Forest Land designated lands and zoning of Agricultural/forestry 10 (A/f-10) and Agricultural/forestry 20 (A/f-20).
- The site is missing almost every criteria for its current land use designation of Agricultural/forestry.
- Additional information is needed on fire access and safety and traffic on Spirit Lake Cutoff, as the road may be beyond original design capacity
- The sub-10-acre zoned land adjacent to the subject land was not a legal plat and should not factor into the consideration of this case.
- The proposal is inconsistent with the Bonner Comprehensive Plan, Agriculture Component, Objectives & Policies, #1;
- The proposal is inconsistent with the Bonner County Comprehensive Plan, Implementation Component, Transportation, Goals and Objectives;
- The proposal is inconsistent with the Bonner County Comprehensive Plan, Implementation Component, Community Design, Goals and Objectives.

Comprehensive Plan Amendment Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposal **is not** in accord with the following elements of the Bonner County Comprehensive Plan:

- Bonner Comprehensive Plan, Agriculture Component, Objectives & Policies, #1;
- Bonner County Comprehensive Plan, Implementation Component, Transportation, Goals and Objectives; and,
- Bonner County Comprehensive Plan, Implementation Component, Community Design, Goals and Objectives

Conclusion 2

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

- As detailed above, the proposal is inconsistent with the Comprehensive Plan.

Conclusion 3

The proposal **is not** in accord with the Rural Residential Land Use Designation.

- As detailed above, the proposal is inconsistent with the Comprehensive Plan.

BOARD OF COUNTY COMMISSIONERS
Motion 2 of 2

Zone Change

MOTION TO DENY: Commissioner Bradshaw moved to deny project File ZC0015-20, requesting a zone change from Agricultural/Forestry 10 (A/F-10) to Rural-5 (R-5), based the inconsistency of the requested zoning with the current land use designation of the land, considering the denial of AM0018-20. Commissioner Connolly seconded the motion.

VOTED upon and the Chair declared the motion carried.

Roll Call Vote:

Commissioner McDonald	Nay
Commissioner Connolly	Aye
Commissioner Bradshaw	Aye

Zone Change Findings of Fact

- The parcels are unplatted and ~160 acres in total size.
- County GIS states that Spirit Lake Cutoff is a secondary arterial is County owned and maintained and is paved with hot mix asphalt.
- The site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- The site does not contain mapped wetlands. (USFWS)
- The parcels are not within a flood zone.
- The site has no mapped water bodies or watercourses.
- The soil types on the site are considered prime farmland or prime farmland if irrigated.
- There is no water or sewer service on the site at this time, wells and septic systems would be required.
- The site is served by Spirit Lake Fire, Avista, Bonner School District #83 and Bonner Co Ambulance District.
- The parcels are surrounded by Ag/Forest Land designated lands and zoning of Agricultural/forestry 10 (A/f-10) and Agricultural/forestry 20 (A/f-20).
- The site is missing almost every criterion for its current land use designation of Agricultural/forestry.
- To the immediate northeast of the site in question is an existing subdivided area of 50 parcels.
- 48 of these 50 parcels are less than 10 acres and could only be created under current zoning code in areas zoned as Rural 5 or smaller. 35 of these 50 parcels are 7.5 acres or less (nearer to 5 acres than to 10 acres).
- Based on the denial of AM0018-20, the current land use designation of the land is Ag/Forest designation. Rural 5 zoning is not consistent with this designation and so this project must be denied.

Zone Change Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposal is **not** in accord with the Land Use element of the Bonner County Comprehensive Plan, based upon the denial of AM0018-20.

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and is **not** found to be in compliance, based upon the denial of AM0018-20.

Conclusion 3

The proposal is **not** in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code, based upon the denial of AM0018-20.

Background:

A. Site data:

- Use: Vacant, parcels are unplatted
- Size: ~160 acres
- Zone: Agricultural/forestry 10 (A/f-10)
- Land Use: Ag/Forest Land (10-20 AC)
- Legal: 27-55N-4W N2N2

B. Access:

- Spirit Lake Cutoff provides access to the property.
- County GIS states that Spirit Lake Cutoff is a secondary arterial, is paved with hot mix asphalt, and is County owned and maintained.

C. Environmental factors:

- Site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Parcel is within SFHA Zone X, per FIRM Panel 16017C1125E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
- The site has no mapped water bodies or watercourses.
- Soil types:
 - Pend Oreille-Highfalls complex, 0 to 6 percent slopes; prime farmland
 - Rathdrum-Bonner ashy silt loams, 0 to 8 percent slopes; prime farmland
 - Kootenai gravelly ashy silt loam, 0 to 4 percent slopes; prime farmland if irrigated

D. Services:

- Water: No service at this time, well(s) would be required.
- Sewage: No service at this time, septic system(s) would be required.
- Fire: Spirit Lake Fire
- Power: Northern Lights
- School District: Bonner School #83
- Ambulance District: Bonner Co Ambulance District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant
North	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant government land & residential uses
East	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant government land & residential uses
South	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant land & residential uses
West	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant land & residential uses

F. Standards review: Comprehensive Plan & Bonner County Revised Code

- **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.
- **Existing Comprehensive Plan Designation:**
Ag/Forest Land: The Ag/Forest land designation recognizes areas where steeper slopes prevail (30% or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.

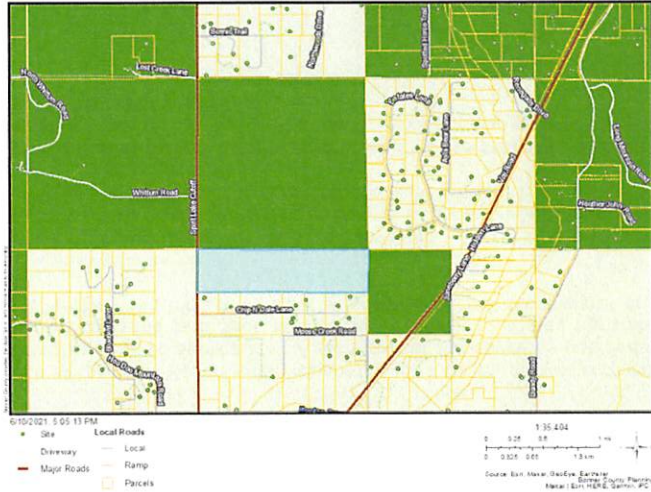


- **Proposed Comprehensive Plan Designation:**
Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available, and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to

loss of property or lives. Small-scale agricultural uses and residential development are permitted.

- **12-322 - Agricultural/Forestry District:**
 - 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:
 - Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
 - Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture or requiring close proximity for the support of agriculture.
 - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - A/F-20 in all areas designated as prime Ag/Forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated Ag/Forest land in the comprehensive plan that also feature:
 - Prime agricultural soils.
 - Are characterized by agricultural or forestry uses.
 - Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to Ag/Forest production.
 - A/F-10 in areas designated as Ag/Forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services.

AM0018-20, ZC0015-20 - Agricultural/forestry 10 (A/f-10) Zoning



12-323 – Rural District:

- o The Rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 - o Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 - o Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 - o Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
- o Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - o R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - Characterized by slopes that are steeper than thirty percent (30%).
 - Located within critical wildlife habitat as identified by federal, state or local agencies.
 - Contain prime agricultural soils.

- Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
- Within the floodway.
- Contain limited access to public services.
- o R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.2 – Applicability.

H. Agency & Public Notice, Comments

These applications were routed to the following agencies for comment on November 16, 2021:

Northern Lights Inc.	Idaho Panhandle National Forest
Bonner County Road & Bridge Department	Panhandle Health District
Bonner School District #83	Spirit Lake Fire District
Idaho Department of Environmental Quality	U.S. Forest Service
Idaho Department of Lands – Sandpoint	Union Pacific Railroad (Spokane)
U.S. Fish & Wildlife	Idaho Department of Water Resources
Idaho Department of Fish & Game	

A comment was received from Idaho Fish & Game. There was concern over the impact of development on Hoodoo Creek. The letter stated that there will be plentiful wildlife habitat remaining “with large tracts of State of Idaho, Kaniksu National Forest, and agricultural lands near to the proposed application area.” The letter expressed concern over potential human-wildlife interactions if this were to be approved. The letter concluded the following:

“In summary, wildlife use will be negatively impacted within the immediate areas where conversion of forest to further subdivision and development occur. While the habitat, and many of the species, are currently common and similar resources are available nearby, continued development will change the abundance, diversity, and distribution of wildlife within Bonner County.”

A comment was received from Spirit Lake Fire, which is quoted below:

In consideration of splitting the zoned Ag/Forest Land from 10 acres to 5 acres, there are deficiencies in the current infrastructure that should be addressed prior to approving a split.

- *The area needs to have 2 points of access/egress.*
- *A traffic analysis should be conducted on Spirit Lake Cutoff Rd due to the increase in home density.*

- There has been a 10% increase in vehicle crashes (injury and non-injury) in the past year.
- Due to the current traffic load, our emergency response has been hampered in those areas.
- The speed limit of the roadway needs to be evaluated and adjusted due to density and road conditions.

Staff response: This is not a review for "splitting" land (i.e., this is not a subdivision request). It would be inappropriate to review this comp plan amendment request and zone change request as though they together were a subdivision proposal. A subdivision is not proposed in this request. A subdivision would need to be a separate request from the questions at hand in the applications under review.

These comments from Spirit Lake Fire would be helpful and appropriate if a request for subdivision is made in the area in question.

A comment was received from Panhandle Health:

"PHD received eight (8) site evaluation applications for the land associated with this proposal and assessed the parcels for septic suitability during the 2021 field season. In the locations assessed, suitable septic locations were identified. Prior to issuance of any septic permits for the project as proposed, PHD must receive completed subsurface sewage disposal applications along with all requisite fees. Additional field work may be required. Regarding the proposed Comprehensive Plan Amendment and Zone Change, PHD has no additional comments at this time."

All other agencies responded with "no comment" or did not respond.

At the time of the Staff Report was prepared, over a dozen public comments were received on this de novo application. A summary of the concerns outlined in these comments are concerns over spot zoning, the presence of nearby agriculture, the presence of prime farmland soils on the site, and concerns about water and septic availability.

Two petitions opposing this proposal were submitted. There is no provision in the Bonner County Comprehensive Plan or in Bonner County Revised Code to evaluate petitions in the consideration of land use proposals or decisions.

Several previous staff reports have been prepared on this proposal. These previous staff reports in the record cover the public and agency comments previously submitted on these two applications.

I. Applicant Narratives:

Applicant Narrative, AM0018-20 Comprehensive Plan Map Amendment:

**Explain in detail the reason for the requested amendment to the comprehensive plan:
What circumstances warrant an amendment of the comprehensive plan map designation?**

Unlike a detailed zoning map, the Comprehensive Plan Future Land Use Map is intended to represent a watercolor or "fuzzy" layout of potential land uses within Bonner County. The Future Land Use Map cannot possibly be applied at the same granular level as a zoning map which is why an extensive narrative helps to describe the particular land characteristics in any given designated area. The subject property has no mapped water bodies or water courses, is mostly flat and is in our opinion misclassified as Ag/Forest due to the fact that Ag/Forest land designation recognizes areas where steeper slopes prevail (30% or greater) and transportation is provided by private roads or U.S. Forest Service or state roads, urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services. As none of these characteristics are present or applicable to the subject parcel and recognizing the goals of the Comprehensive Plan includes goals that encourage the community to grow and supports expansion of housing needs to provide adequate shelter for all regardless of age, income or physical abilities, we feel that a Comprehensive Plan amendment to Rural-5 is most appropriate based on the land characteristics of this property.

Explain how the proposed comprehensive plan amendment will effect elements such as noise, light glare, odor, fumes and vibrations on adjoining property:

As the proposed Rural-5 designation maintains the identical 25' exterior property line setbacks as the current AF-10 designation, there will be no impact to adjoining property. Whether composed of 5- or 10-acre parcels, in either case any new structures will maintain the same 25' setback so there will be no material impact on potential noise, light, glare, odor, fumes or vibrations.

How has the proposal been designed to be compatible with the adjoining land uses?

The area surrounding the subject parcel is currently developed with a number of different sized homesites and hobby farms typical of the rural residential fabric found throughout Bonner County. Sometimes the partition of larger acreage has been the result of family splits and other times such as the case with the adjacent Hoodoo

Valley unrecorded plat, through other informal subdivision processes. Our proposal – which will still be required to proceed and approved through the subdivision approval process – is expected to include large 5-acre lots which are similar in size to many lots in the vicinity (from 2-acres to 9.5-acres in size to the Northeast corner of this property). Per BCRC, the Rural-5 District is compatible with the area because uses allowed in the District are specifically limited by code: 12-323: RURAL DISTRICT: A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. As proposed the requested change would result in low density (5-acre lots) which would allow uses compatible with rural pursuits.

What extensions of water or sewer lines, roads or other public or private services would be necessary if this comprehensive plan amendment were approved?

There is an existing access road that would be improved, upon approval of this comprehensive plan change/ zone change and subsequent subdivision. This road would meet Bonner County Road and Bridge standards and would come off the existing Spirit Lake Cutoff, a publicly maintained roadway. There are no water or sewer connections in this area, so individual septic/drainfields and individual wells would be proposed at this time. This is the typical practice for residences in this area.

Explain why an amendment to the comprehensive plan map is appropriate, detailing changes that have occurred since the comprehensive plan map was adopted or circumstances that warrant a reconsideration of the designation. Include details such as city annexations, area of city impact amendments, population changes, subdivision development, growth factors, expansion of fire district or other service boundaries, transportation or public services improvements or other details that support the proposed or public services (Attach additional pages if necessary):

As was previously stated, the Comprehensive Plan Future Land Use Map is an extremely coarse representative vision of future land uses which guides the granular land use through the adoption of zoning. As it would be impractical and cost prohibitive to inventory every acre of land in Bonner County, the Future Land Use Map should be considered a guidance (Watercolor) tool. In order to provide appointed and elected officials greater context on land use decisions, the Comprehensive Plan includes extensive descriptions of each characteristic particular to a land use designation. Relating to the subject parcel, this site is mostly flat, with only a very small area of steep slopes. The access provided by Spirit Lake Cutoff is a well-developed secondary arterial, paved with hot mix asphalt, and is County owned and maintained. The site has no obvious challenges to residential development. The site has no known hazard areas. The site has police, fire, and ambulance services. This site does not appear suited to the comprehensive plan designation of Ag/Forest Land, as it is missing almost every criteria for this designation. The density allowed under this designation serves to reduce potential

impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses (including logging and timber harvest) and residential development will continue to be permitted under this designation if approved. This site has no features that make it incompatible with the Rural Residential land use designation.

Applicant Narrative, ZC0015-20: Zone Change:

Explain in detail the reason for the zone change:

The site in question is currently zoned as A/F-10. This zone is appropriate in areas designated by the comprehensive plan as Ag/Forest land. As stated in our Comprehensive Plan Map Amendment Application, this site does not appear suited to the comprehensive plan designation of Ag/Forest land, as it is missing almost every criteria for this designation. Because this site is not appropriate to be designated as Ag/Forest land, it follows that this site is not appropriate to remain zoned as A/F-10.

How does the proposal meet the specific criteria of the proposed zoning district? (BCRC 12-321 through 12-329):

The request is aligned with the Rural Residential district because the district is established per BCRC 12-323: RURAL DISTRICT: A. "The rural district is established to allow low density residential uses that are compatible with rural pursuits." As proposed, the requested change would result in low density (5-acre lots) which would allow uses compatible with rural pursuits. To the immediate northeast of the site in question is a subdivided area of 50 parcels. 48 of these 50 parcels are less than 10 acres in size and could only be created under current zoning code in areas zoned as Rural 5 or smaller. 35 of these 50 parcels are 7.5 acres or less. In other words, these 35 parcels are already developed at or near the one dwelling unit per five (5) acre density, consistent with BCRC 12-323B.2. In other words, the site in question is in an area already developed at or near the one dwelling unit per five (5) acre density. We believe this feature alone is enough to clarify that the appropriate zoning for this property should be R-5.

Explain how the proposed zone change will effect elements such as noise, light glare, odor, fumes and vibrations on adjoining property:

The proposed zone change will have no immediate impact on adjacent property. Building setbacks are no different in the Rural-5 zone (25' feet) and therefore no greater comparable noise, light, glare, odor, fumes or vibrations will occur due to approval of the Rural-5 zoning.

How has the proposal been designed to be compatible with the adjoining land uses?

No design has been developed as of yet however it is anticipated that the eventual parcel configuration will mirror the large 5-acre lots to the northeast and uses will be

compatible due to the limitations placed on this district designation including but not limited to uses that are compatible with rural pursuits per BCRC 12-323.

K. Staff Analysis:

Staff Analysis:

Staff concluded this project is consistent with Bonner County Revised Code and is consistent with the general and specific objectives of the Bonner County Comprehensive Plan based upon the information found in the 'Background' and 'Staff Analysis' portions of this staff report, and as demonstrated by the findings of fact, conclusions of law, and conditions of approval below.

The standards and comparisons for both the Ag/Forest and Rural Residential Land Use Designation as well as the Agricultural/Forestry and Rural zones are listed below:

Staff Analysis, AM0018-20 Comprehensive Plan Map Amendment:

Review of Existing Comprehensive Plan Designation:

Ag/Forest Land: The Ag/Forest land designation recognizes areas where steeper slopes prevail (30% or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.

Staff Review: This site is mostly flat, with only a very small area of steep slopes. The access provided by Spirit Lake Cutoff is a well-developed secondary arterial, paved with hot mix asphalt, and is County owned and maintained. The site does not feature urban sewer or water service. The site does not have poor soil conditions. The site has no obvious challenges to residential development. The site has no known hazard areas. The site has police, fire, and ambulance services. This site does not appear suited to the comprehensive plan designation of Ag/Forest Land, as it is missing almost every criterion for this designation. The lack of urban services alone is not sufficient to designate this land as Ag/Forest designation. A lack of urban services is also a standard found in the Rural Residential land use designation (below).

Review of Proposed Comprehensive Plan Designation:

Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available, and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

Staff Review: As stated above, the urban services of sewer and water service are not present on the site. There are no mapped slopes of >30%. There are no known hazard areas on the site. No agency comments called this site out as critical wildlife habitat. The density allowed under this designation serves to reduce potential

impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses (including logging and timber harvest) and residential development will continue to be permitted under this designation. This site has no features that make it incompatible with the Rural Residential land use designation, and there appears to be no reason to deny the applicant request to redesignate this site as Rural Residential.

Staff Analysis, ZC0015-20: Zone Change:

Review of Existing Agricultural/Forestry Zoning:

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:

- o Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
- o Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture or requiring close proximity for the support of agriculture.

Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

- o A/F-20 in all areas designated as prime Ag/Forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated Ag/Forest land in the comprehensive plan that also feature:
 - o Prime agricultural soils.
 - o Are characterized by agricultural or forestry uses.
 - o Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to Ag/Forest production.
- o A/F-10 in areas designated as Ag/Forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services.

STAFF: The site in question is currently zoned as A/F-10. This zone is appropriate in areas designated by the comprehensive plan as Ag/Forest land. As stated above, this site does not appear suited to the comprehensive plan designation of Ag/Forest land, as it is missing almost every criterion for this designation. Because this site is not appropriate to be designated as Ag/Forest land, it follows that this site is not appropriate to remain zoned as A/F-10.

Review of Proposed Rural Zoning:

The Rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:

- o Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
- o Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
- o Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

- o R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - o Characterized by slopes that are steeper than thirty percent (30%).
 - o Located within critical wildlife habitat as identified by federal, state or local agencies.
 - o Contain prime agricultural soils.
 - o Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
 - o Within the floodway.
 - o Contain limited access to public services.
- o R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above.

STAFF: The applicant in this case has requested a zoning designation to R-5 (Rural 5). Rural zoning (either R-5 or R-10) requires the land use designation of Rural Residential to be applied to the land in question. As stated above, this site has no features that make it incompatible with the Rural Residential land use designation, and there appears to be no reason to deny the applicant request to redesignate this site as Rural Residential. Since the land in question is compatible with the Rural Residential land use designation, it follows that either R-10 or R-5 zoning should be applied to the site, as appropriate.

STAFF, R-10 Evaluation: The site in question is not characterized by slopes that are steeper than thirty percent (30%). The site is not located within critical wildlife habitat as identified by federal, state or local agencies. The site does contain prime agricultural soils. The site is served by Spirit Lake Cutoff, which is a secondary arterial that is County owned and maintained. It is paved with hot mix asphalt. The site is not within the floodway. The site is served by Spirit Lake Fire, Avista, Bonner School District #83 and Bonner Co Ambulance District and so does not contain limited access to public services.

STAFF, R-5 Evaluation: Per BCRC 12-323, a Rural Residential designated site should be zoned as R-10 if it meets one of more of the criteria above, unless, per BCRC 12-323B.2, the site in question is in an area already developed at or near the one dwelling unit per five (5) acre density.

STAFF, R-5 Evaluation (cont.): To the immediate northeast of the site in question is a subdivided area of 50 parcels (see image below):

- o 48 of these 50 parcels are less than 10 acres in size and could only be created under current zoning code in areas zoned as Rural 5 or smaller.
- o 35 of these 50 parcels are 7.5 acres or less (nearer to 5 acres than to 10 acres). In other words, these 35 parcels are already developed at or near the one dwelling unit per five (5) acre density, consistent with BCRC 12-323B.2.
- o In other words, the site in question is in an area already developed at or near the one dwelling unit per five (5) acre density. This feature alone is enough to clarify that the appropriate zoning for this property should be R-5, and should not be R-10, per BCRC 12-323B.2.
- o It should be noted that staffs understands that the reason for the language above ("*unless... the site in question is in an area already developed at or near the one dwelling unit per five (5) acre density*") is that it is directly intended to support the Comprehensive Plan goal for the clustering of development. Examples of calls in the Comprehensive Plan for the clustering of development follow:

Comprehensive Plan - School Facilities & Transportation Component, Objectives and Policies:

"Developments should be encouraged to cluster to reduce impact on school and transportation costs and needs".

Comprehensive Plan - Natural Resources Component, White-tailed Deer and Mule Deer Winter Range:

Suggested mitigations: Cluster building sites so as to maximize contiguous open space.

Comprehensive Plan - Natural Resources Component, White-tailed Deer and Mule Deer Winter Range

Suggested mitigations: Cluster building sites so as to maximize contiguous open space.

Comprehensive Plan - Natural Resources Component, Elk Winter Range and Calving Habitat

Suggested mitigations: Cluster building sites so as to maximize contiguous open space.

Comprehensive Plan - Natural Resources Component, Moose Habitat

Suggested mitigations: Cluster building sites so as to maximize contiguous open space.

Comprehensive Plan - Housing Component:

The needs assessment examined zoning and land use barriers to housing for the lower-income residents and the workforce for the cities and county. The assessment noted the need for smaller lot sizes, cluster developments, density bonuses and incentives to developers for affordable housing projects.

Comprehensive Plan - Implementation Component, Natural Resources:
Development standards should be designed to encourage clustered development and the preservation of open space and wildlife habitat.

Comprehensive Plan - Implementation Component, Transportation:
To reduce transportation costs, road building and environmental impacts, cluster development shall be encouraged.

Comprehensive Plan - Implementation Component, Housing:
Clustering of housing to save on infrastructure and transportation costs is encouraged.

Comprehensive Plan - Implementation Component, Community Design:
To promote and preserve the natural features and rural atmosphere of the community, the county should enact development standards that address... cluster development.

The Chair declared the hearing adjourned at 4:57 p.m.

Respectfully submitted, this 10th day of March 2022.



Milton Ollerton, Planning Director