



# CITY OF COEUR D'ALENE

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710 EAST MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 -3964  
208-769-2267 – 208-769-2237 FAX

## HILLSIDE ORDINANCE REQUIREMENTS

Have Orthophoto with topo, slopes, and lot area at counter and as layer in arcview.

Submit the following;

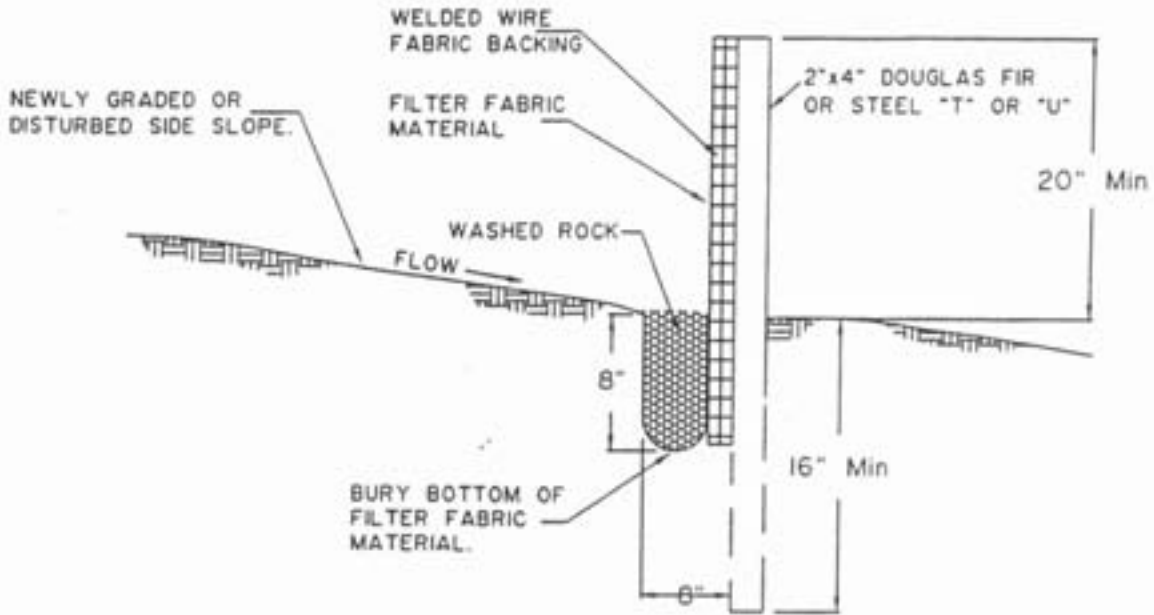
1. Site Plan
2. Color samples for exterior
3. Geotechnical report

The site plan must include these items;

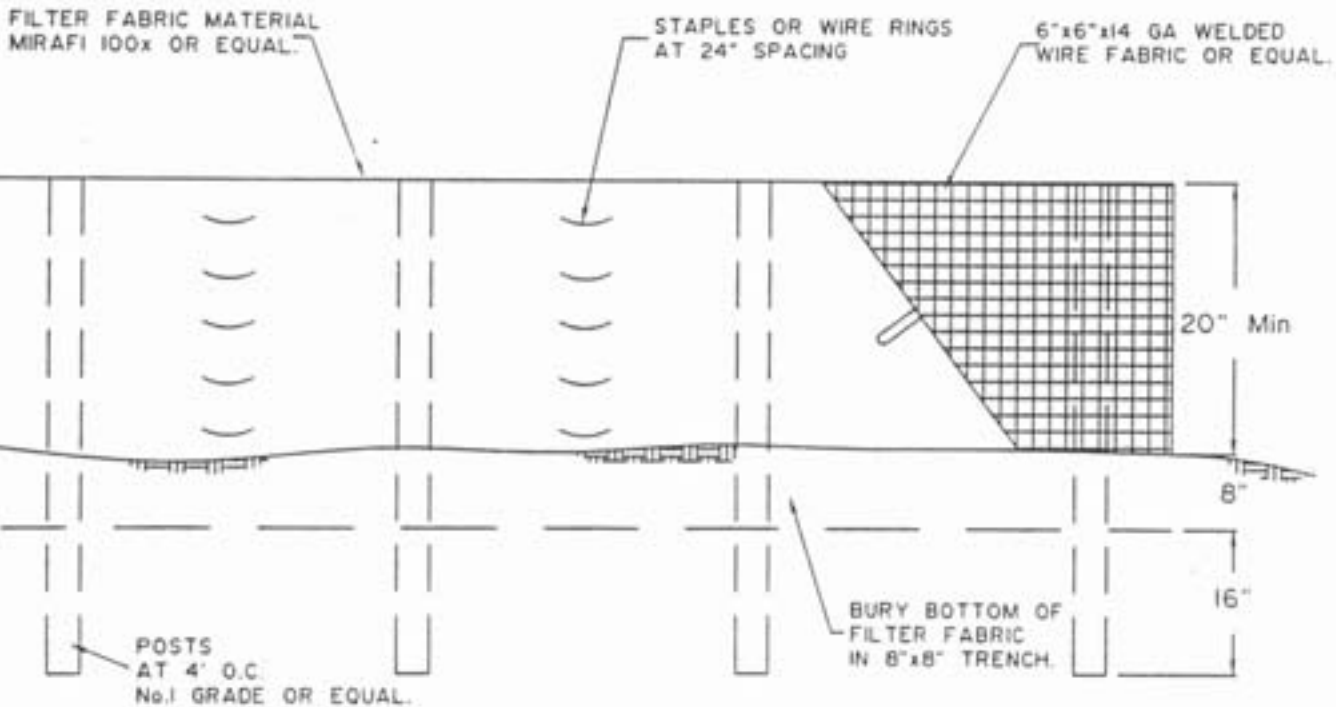
- Property boundaries with dimensions.
- Approximate square footage of lot and of area to be disturbed.
- Proposed improvements including paving, flatwork, structures, utilities, and landscaped areas.
- Proposed grading. If the permanent grade is being changed by more than 2' then contours are required.
- Stormwater facilities, including swales.
- Temporary and permanent erosion control.
- Revegetation of disturbed areas.
- Cost estimate for temporary erosion control.
- Location of trees > 6" dbh outside of the construction zone that are to be removed, and the location of the replacement.

The Geotechnical report must address the following items;

- Recommendations for foundation design and construction
- Groundwater and recommendations for mitigation, where applicable.
- Temporary and permanent slope stability and erosion, where applicable.
- Preparation for and placement of structural fill material, where applicable.
- Inspections by the Geotechnical engineer during construction.



**TYPICAL CROSS SECTION**  
N.T.S.



**ELEVATION**  
N.T.S.

REVISION	APPROVED	DATE	CITY OF COEUR d'ALENE STANDARD DRAWING		APPROVED BY:	
			<h1>SILT FENCE</h1>		 CITY ENGINEER, PE 7432	
						8-29-01 DATE
					DWG NO.	<b>M-19</b>

COUNCIL BILL NO. 05-1004  
ORDINANCE NO. 3207

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 17.08.905 TO INCLUDE LANDS ANNEXED INTO THE CITY WITHIN THE HILLSIDE OVERLAY ZONE; AMENDING SECTION 17.08.943 TO REQUIRE THAT THE FERNAN WATERSHED MANAGEMENT PLAN BE CONSIDERED IN MAKING LAND USE DECISION WITHIN THE FERNAN LAKE PLANNING AREA; AMENDING SECTION 17.08.945 TO REQUIRE THAT THE FERNAN WATERSHED MANAGEMENT PLAN BE CONSIDERED IN GRANTING DEVIATIONS WITHIN THE FERNAN LAKE PLANNING AREA; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

WHEREAS, after public hearing on the hereinafter provided amendments, and after recommendation by the Planning and Zoning Commission, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

**SECTION 1.** That Coeur d'Alene Municipal Code Section 17.08.905, is hereby amended to read as follows:

**17.08.905: APPLICABILITY:**

The provisions of this article shall apply to all land within the hillside overlay zone as shown in exhibit A of this section and to all lands annexed into the City limits after May 1, 2005. Lands with an average slope of less than fifteen percent (15%), within the hillside overlay zone, are exempt from these regulations.

**SECTION 2.** That Coeur d'Alene Municipal Code Section 17.08.943, is hereby amended to read as follows:

**17.08.943: FERNAN LAKE PLANNING AREA:**

A. Applicability:

1. All land within five hundred feet (500') of the high water mark of Fernan Lake, as defined in section 17.08.940 of this chapter, shall be subject to the following additional requirements.

2. The Fernan Watershed Management Plan, Plan Goals and Action Plan shall be used as a guide for decision making in the implementation of the increased standards delineated in this Section.

B. Hydrology Report:

1. In addition to the geotechnical study required under section 17.08.915 of this chapter, a hydrology inventory and report from a professional hydrologist shall be required. The report shall be submitted to city in conjunction with the application. This report must include location of surface and underground springs, both intermittent and permanent, surface water disposal and placement of storm water management areas. The report must also provide recommendations for mitigating any adverse impacts of the development on surface and ground water. The recommendations of the professional hydrologist shall be provided to the geotechnical engineer preparing the report required under section 17.08.915 of this chapter for incorporation into the site design of the project.

C. Development Standards:

1. No public or private roads, driveways or rights of way shall be constructed or dedicated within seventy five feet (75') of the high water mark of Fernan Lake as defined in section 17.08.940 of this chapter. Provided however that the requirements of this subsection shall not apply to construction that is necessary to replace or maintain existing public streets.

2. Construction within seventy five feet (75') of the high water mark shall be prohibited except for walkways, stairs, stairway landings and ramps. No heavy construction equipment, such as backhoes, graders and dump trucks shall be used within the seventy five foot (75') buffer area. Nature trails, walkways and stairs shall not exceed six feet (6') in width. Thinning of vegetation to allow for nature trails, walkways and stairs are limited to a total width of ten feet (10'). Provided however that the requirements of this subsection shall not apply to construction that is necessary to replace or maintain existing public services such as streets, sidewalks, parking lots, streetlights, fire hydrants and underground utilities.

3. There shall be no manmade development including structures, utility lines, roads or driveways on actual slopes of thirty five percent (35%) or greater. Provided however that properties that are directly accessed from a public right of way, constructed and existing on or before the effective date of this section, that is more than two hundred feet (200') from the high water mark of Fernan Lake, shall be exempt from the provisions of this subsection if:

- a. All structures on the subject property are built within seventy five feet (75') from the property line adjacent to the public right of way. (Ord. 3160 §5, 2003)

**SECTION 3.** That Coeur d'Alene Municipal Code Section 17.08.945, is hereby amended to read as follows:

**17.08.945: DEVIATION FROM DEVELOPMENT STANDARDS:**

The developer, or the property owner, may request deviations from any of the development standards of the hillside overlay ordinance to the planning director. Deviations may be granted only as listed herein:

A. Minor Deviations: The planning director shall notify the public of the request for minor deviation in accordance with subsection A6 of this section. After public notice and comment on the deviation request, the city planning director will review and decide on the proposed deviations. This decision may be appealed to the planning commission for approval or denial. Minor deviations may only be granted if all of the following circumstances are found to exist:

1. The deviation will result in equal or greater protection of the resources protected under this chapter;
2. The deviation is the minimum necessary to alleviate the difficulty;
3. The deviation does not conflict with Idaho Code, the eCity of Coeur d'Alene comprehensive plan and zoning ordinances; and, in the case of the Fernan Lake Planning Area, the Fernan Watershed Management Plan.
4. The requested modification was not specifically appealed during the public hearing process; and
5. The requested modification will not cause adverse physical impacts on adjacent properties.

Deviations typical of this category include:

- a. Reduction of portion or all of the requirements for geotechnical study, grading plan, tree survey, etc., if the work is minor in nature or if adequate information already exists to determine the impact of the development.
- b. Modification of dimensional requirements for driveway lengths, curb and sidewalk requirements, architectural features.
- c. The use of seedlings (rather than 4 foot - 8 foot tall B&B trees) for tree replacements on steep slopes where there are shallow soils.

d. Deviation from the maximum cut and fill slopes and fill slope inclination all as defined in subsection 17.08.920E of this chapter.

6. Prior to granting or denying a minor deviation request, notice and opportunity to be heard shall be provided to property owners adjoining the parcel under consideration. The city shall cause notice to be mailed to adjoining property owners no less than seven (7) calendar days before application review. The applicant shall provide an accurate mailing list and shall be responsible for all costs of public notice.

B. Substantial Deviations: Substantial deviations may be granted by the planning commission to the conditions and limitations of the hillside development regulations, after public notice and hearing. This decision may be appealed to the city council for approval or denial. Substantial deviations may only be granted if all of the following circumstances are found to exist:

1. The deviation is the minimum necessary to alleviate the difficulty;

2. The deviation will result in equal or greater protection of the resources protected under this article;

3. The requested modification was not specifically appealed during the public hearing process;

4. The requested modification will not cause adverse physical impacts on adjacent properties; and

5. The deviation does not conflict with Idaho Code, the eCity of Coeur d'Alene comprehensive plan and zoning ordinance and, in the case of the Fernan Lake Planning Area, the Fernan Watershed Management Plan.

C. Planned Unit Developments: Modifications to the development standards of this article approved through the planned unit development process (section 17.07.205 et seq., of this title) shall not be subject to the foregoing review and hearing process for deviations.

Public notice for substantial deviations shall be pursuant to section 67-6509 Idaho Code, and shall include mailed notice to abutting property owners not less than fifteen (15) days before the public hearing. The applicant shall provide an accurate mailing list and shall be responsible for all costs of public notice. (Ord. 3127, 2003; Ord. 3091 §11, 2003)

**SECTION 4.** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 5.** Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under

any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

**SECTION 6.** The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.


**SECTION 7.** After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an ordinance of the City of Coeur d'Alene at a regular session of the City Council, April 5, 2005.

APPROVED, ADOPTED and SIGNED this 5<sup>th</sup> day of April, 2005.

  
Sandi Bloem, Mayor

ATTEST:

  
Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. 3207  
O-1-05 Hillside Overlay Ordinance

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 17.08.905 TO INCLUDE LANDS ANNEXED INTO THE CITY WITHIN THE HILLSIDE OVERLAY ZONE; AMENDING SECTION 17.08.943 TO REQUIRE THAT THE FERNAN WATERSHED MANAGEMENT PLAN BE CONSIDERED IN MAKING LAND USE DECISION WITHIN THE FERNAN LAKE PLANNING AREA; AMENDING SECTION 17.08.945 TO REQUIRE THAT THE FERNAN WATERSHED MANAGEMENT PLAN BE CONSIDERED IN GRANTING DEVIATIONS WITHIN THE FERNAN LAKE PLANNING AREA; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith AND PROVIDING A SEVERABILITY CLAUSE. THE ORDINANCE SHALL BE EFFECTIVE UPON PUBLICATION OF THIS SUMMARY. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. 3207 IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

  
Susan K. Weathers, City Clerk



**STATEMENT OF LEGAL ADVISOR**

I, Warren J. Wilson, am a Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. 3207, O-1-05 Hillside Overlay Ordinance, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 5<sup>th</sup> day of April, 2005.

  
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Warren J. Wilson, Deputy City Attorney

ORDINANCE NO. 3091

AN ORDINANCE AMENDING CHAPTER 17 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, IDAHO, KOOTENAI COUNTY, IDAHO, BY AMENDING SECTION 17.07.230 TO PROVIDE FOR PLANNED UNIT DEVELOPMENT CRITERIA WITHIN THE HILLSIDE OVERLAY ZONE; ADDING NEW SECTIONS TO BE DESIGNATED SECTIONS 17.08.900, 17.08.905, 17.08.910, 17.08.915, 17.08.920, 17.08.925, 17.08.930, 17.08.935, 17.08.940, 17.08.945, 17.08.950, 17.08.955 TO ESTABLISH A HILLSIDE OVERLAY AND REQUIREMENTS FOR HILLSIDE GRADING, EROSION CONTROL, DRAINAGE, TREE PRESERVATION, WILDFIRE MITIGATION, BUILDING LOCATION, DESIGN STANDARDS, SENSITIVE SURFACE WATER QUALITY, VARIANCES, INSPECTIONS, PENALTIES AND SEVERABILITY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene, Idaho:

Section 1

That Section 17.07.230, be and the same is hereby amended to read as follows:

**17.07.230: PLANNED UNIT DEVELOPMENT REVIEW CRITERIA:**

C. The proposal is compatible with natural features of the site and adjoining properties. In the case of property located within the Hillside Overlay Zone, does not create soil erosion, sedimentation of lower slopes, slide damage, or flooding problems; prevents surface water degradation, or severe cutting or scarring; reduces the risk of catastrophic wildfire in the wildland urban interface; and compliments the visual character and nature of the City.

Section 2

That a new Section be designated 17.08.900, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**17.08.900 TITLE AND PURPOSE**

The Title of this Ordinance shall be the Hillside Overlay Ordinance. The purpose of these regulations is to establish a Hillside Overlay Zone and to prescribe procedures whereby the

[Ordinance No. 3091

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[O-3-02]

SECTIONS 17.08.900, 17.08.905, 17.08.910, 17.08.915, 17.08.920, 17.08.925, 17.08.930, 17.08.935, 17.08.940, 17.08.945, 17.08.950, 17.08.955.

development of lands within the Hillside Overlay Zone occurs in such a manner as to protect the natural and topographic development character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare by insuring that development does not create soil erosion, sedimentation of lower slopes, slide damage, flooding problems, that it prevents surface water degradation, severe cutting or scarring, and to reduce the risk of catastrophic wildfire in the wildland urban interface. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that compliments the visual character and the nature of the city.

### Section 3

That a new Section be designated 17.08.905 be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **17.08.905 APPLICABILITY**

The provisions of this ordinance shall apply to all land within the Hillside Overlay Zone as shown in Exhibit "A" attached hereto and incorporated herein. Lands with an average slope of less than 15%, within the Hillside Overlay Zone, are exempt from these regulations.

### Section 4

That a new Section be designated 17.08.910, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **17.08.910 DEFINITIONS**

- A. Average Slope: The slope of a parcel computed from the vertical and horizontal distances at the highest and lowest points of the parcel.
- B. Building Envelope: The area within the perimeter of the structure, including the primary structure and any attached portions or projections.
- C. Cluster Lots: The same number of homes is clustered on a smaller portion of the total available land. The

remaining land, which would have been allocated to individual home sites, is converted into protected open space and shared by the residents of the development or of the entire community if required as a part of an approval process.

- D. DBH: The diameter of a tree at 4.5 feet above ground level.
- E. Developer: One who undertakes development as defined herein.
- F. Development: All land disturbing activity, except as exempted herein, including tree removal and any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, and excavation.
- G. Geotechnical Engineer: A professional engineer licensed in the State of Idaho, qualified by education or experience in Geotechnical engineering.
- H. Landscape Professional: A person who has training, skill, and expertise in tree identification, tree biology, and ecology, including but not limited to a Certified Arborist, professional Forester, or Landscape Architect
- I. Maximum Driveway Length: Driveway length measured from the public right of way to the structure.
- J. Natural State: Land set aside to be retained in a state that existed immediately prior to the development as defined herein.
- K. Sensitive Surface Water Bodies: Fernan Lake, Coeur d'Alene Lake and the Spokane River
- L. Wildfire Mitigation: Reducing the risk of catastrophic wildfire in the wildland urban interface as addressed in the National Fire Plan, through the use of fire resistive construction, fuel modification, creation of

survivable/defensible space, firebreaks, improved fire department access and water supplies, etc.

- M. Wildland Urban Interface: Those areas where structures or other development meets or intermingles with wildland or vegetative fuels.

Section 5

That a new Section be designated 17.08.915, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**17.08.915 GENERAL REQUIREMENTS**

- A. Geotechnical Studies. Prior to development a Geotechnical study indicating that the site is suitable for the proposed use and development shall be prepared by a Geotechnical Engineer and shall be submitted and approved by the City. The study shall include the following information:

1. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods, if any.
2. Site geology, to include site geologic maps, description of bedrock and surface materials, including artificial fill, locations of any faults, folds, etc., and geologic structural data including bedding, jointing and shear zones, soil depth and soil structure.
3. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.
4. Suitability of site for proposed development from a Geotechnical standpoint.
5. Specific recommendations for site preparation, foundation design and construction, slope stability, potential for slope sloughing and raveling, groundwater, surface and subsurface drainage control, fill placement and compaction, retaining walls, and

other design criteria necessary to mitigate geologic hazards.

6. Additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory tests and references, if deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable.

7. Signature and registration number of the engineer.

8. Additional information or analyses as necessary to evaluate the site.

9. Recommendations for inspections during construction by the Geotechnical Engineer.

B. Wildland Urban Interface.

Wildfire mitigation goals for each development shall be determined by the City prior to development, and shall be achieved using the applicable sections of the Kootenai County Wildland Urban Interface Fire Mitigation Plan, 2000 Urban-Wildland Interface Code and National Fire Protection Association (NFPA) standards as guidelines.

Section 6

That a new Section be designated 17.08.920, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**17.08.920 GRADING AND EROSION CONTROL**

Prior to development, grading and erosion control plans conforming to the following requirements shall be submitted and approved by the City. Erosion control measures conforming to Best Management Practices (BMP's) approved by the City shall be required.

A. Plans: All grading and erosion control plans shall include the following:

1. Property boundaries.
2. All existing natural and man-made features and facilities within twenty feet (20') of the area to be disturbed, including but not limited to streets, utilities, easements, topography, structures, and drainage channels.
3. Existing and proposed finish contours of the areas to be disturbed, at 2 feet vertical intervals. However, this requirement can be waived when the finished ground surface elevation does not vary by more than 2 feet from the ground surface elevation prior to the proposed development.
4. Location of all proposed improvements, including paving, structures, utilities, landscaped areas, flatwork, and storm water control facilities.
5. Existing and proposed drainage patterns, including ridgelines and tributary drainage areas.
6. Storm water control facilities, including invert elevations, slopes, length, cross-sections, and sizes. Construction details shall be shown for grassed infiltration areas, and/or detention/retention facilities.
7. Existing and proposed drainage easements.
8. Details for temporary and permanent erosion control measures.
9. Revegetation Measures
10. Plans shall be stamped and signed by a professional engineer or landscape architect, licensed in the State of Idaho. However, plans for public improvements shall be stamped and signed by a professional engineer licensed in the State of Idaho.

- B. Review by Geotechnical Engineer: The project Geotechnical Engineer shall provide written proof of review and compliance to all grading plans. All grading shall conform to the most current adopted

Building Code and the recommendations of the Geotechnical Engineer.

- C. Installation of temporary erosion control: Temporary erosion control measures shall be installed and functional prior to start of any grading and/or land disturbing activity. They shall be maintained in a functional condition until the permanent measures are installed.

~~REVISION TO ORDINANCE 17.08.94.0~~ All development shall retain an area or areas equal to 25% of the total parcel plus the percentage figure of the average slope of the total parcel, in its natural state. Lands to be retained in a natural state shall be protected from damage through the use of temporary construction fencing or the functional equivalent.

For example, on a 25,000 sq. ft. lot with an average slope of 29%,  $25\% + 29\% = 54\%$  of the total lot area shall be retained in a natural state. In this example a maximum of 11,500 sq.ft. could be disturbed. Also, see Exhibit 17.08.94.0

Lots less than 25,000 square feet, legally created prior to adoption of this ordinance shall be required to retain an area equal to 50% of the area calculated by the above formula. In the above example, on a lot created prior to this ordinance, a 24,999 sq foot lot would need to leave 27% retained in the natural state. The area that could be disturbed would be a maximum of 18,249 square feet.

- E. Grading: All cut slopes shall be constructed in such a manner so that sloughing or raveling is minimized. The maximum allowable vertical height of any cut or fill slope shall be 30'. The maximum inclination of fill slopes shall be 2:1 (horizontal to vertical). For public roadways, the maximum allowable vertical height for cut and fill slopes in combination shall be 60 feet.
- F. Temporary Erosion Control for Slopes With Erodable Surface Materials: All slopes with erodible surface material shall be protected with erosion control netting, blankets, or functional equivalent. Netting



or blankets shall only be used in conjunction with organic mulch such as straw or wood fiber. The blanket must be applied so that it is in complete contact with the soil so that erosion does not occur beneath it. Erosion netting or blankets shall be securely anchored to the slope in accordance with manufacturer's recommendations. Temporary slope erosion control measures shall be installed upon completion of slope grading if permanent erosion control measures are not completed at the same time.

- G. Revegetation Requirements: All areas with erodible surface materials that are graded and not paved shall be revegetated. The vegetation used for these areas shall be native or similar species that will reduce the visual impact of the slope and provide long-term slope stabilization. All revegetation measures shall be installed, inspected by the City, and approved prior to the issuance of a certificate of occupancy, or other time as determined by the City. Vegetation shall be installed in such a manner as to be substantially established within one year of installation.
- H. Maintenance of Erosion Control Measures: All measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, and landscaping, shall be maintained in perpetuity on all areas which have been disturbed, including public rights-of-way. The applicant shall indicate the mechanisms in place to ensure maintenance of these measures.
- I. Security: After an Erosion Control Plan for a building site is approved by the City and prior to issuance of a building permit, the applicant shall provide a performance bond or other security in the amount of 150% of the value of the temporary erosion control measures shown on the approved plan. The City Attorney shall approve all security. The financial guarantee instrument shall be in effect for a period of at least one year from the project completion date. All or a portion of the security retained by the City may be withheld for a period up to three years beyond the one year maintenance period if it has been determined by

the City that the site has not been sufficiently stabilized against erosion.

- J. Inspections and Final Report: Prior to the acceptance of a subdivision by the City or issuance of a certificate of occupancy for individual structures, the project Geotechnical Engineer shall provide a final report indicating that the project was constructed in accordance with their recommendations, and that all recommended inspections were conducted by the project Geotechnical Engineer.

#### Section 7

That a new Section be designated 17.08.925, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **17.08.925 SURFACE AND GROUNDWATER DRAINAGE**

The requirements for stormwater management plans as set forth in the City of Coeur d'Alene Municipal Code shall apply to all development within the Hillside Overlay Zone including single family residences. In addition, the following requirements shall apply.

- A. Stormwater facilities shall include storm drain systems associated with street construction, facilities for infiltration, treatment, and/or conveyance of drainage from driveways, parking areas and other impervious surfaces, and roof drainage systems.
- B. Stormwater facilities, when part of the overall site improvements, shall be, to the greatest extent feasible, the first improvements constructed on the development site.
- C. Stormwater facilities shall be designed to divert surface water away from cut faces or sloping surfaces of a fill.
- D. Existing natural drainage systems shall be utilized in their natural state to the greatest extent feasible.

- E. Stormwater facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.

Section 8

That a new Section be designated 17.08.930, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

~~17.08.930~~ **TREE PRESERVATION, PROTECTION AND REMOVAL**

The preservation, protection, and removal of trees shall meet the following requirements:

- A. Tree Removal: Prior to the development, a tree removal plan must be submitted to and approved by the City. Removal of trees less than 6 inches dbh are not regulated as long as the method of cut and removal does not create soil disturbance. (The acts of walking and falling trees are not to be construed to create soil disturbance). Trees can be removed if they meet one or more of the following conditions:
1. Trees within a construction zone:
    - a. The tree is located within the building envelope.
    - b. The tree is located within a proposed street right of way, driveway, or parking area.
    - c. The tree is located within water, sewer, or other public utility easement.
    - d. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.

Trees removed for any of the above conditions are not required to be replaced.



Exhibit  
17.08.930 A

2. Trees located within other areas to be disturbed:

Trees can be removed within other areas except areas to remain in a natural state. Trees removed within these areas must be replaced on a one for one basis with trees that will have approximately the same size and crown at maturity. The replacement trees must meet the requirements of this ordinance and be located on the same property.

3. Trees located within areas to remain in a natural state:

Trees may be removed from these areas with the approval of the City if they meet any of the following conditions.

- a. Removal is required in order to achieve the wildfire mitigation goals established by the City. Trees removed for this reason need not be replaced
- b. The tree is dead or dying. Trees removed meeting this criteria must be replaced on a one for one basis with trees that will have approximately the same size and crown at maturity. The replacement trees must meet the requirements of this ordinance and be located on the same property.

B. ~~Inventory of existing trees~~ Prior to any soil disturbing activities on the building lot, including tree removal, an inventory shall be completed locating all trees greater than six inches dbh within the area(s) to be developed. A plan shall be prepared at the same scale as the site plan. Trees shall be identified by dbh, species, and approximate extent of tree canopy. All tree locations shall have an accuracy of plus or minus two feet. The name, signature, and address of the person responsible for the survey shall be provided on the plan.

C. Protection of natural areas and trees: The developer shall adhere to the following protection standards for all trees not to be removed and for all areas to remain in a natural state.

1. All areas to remain in a natural state and all trees designated for preservation shall be clearly marked on the project site plan. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving, or change in ground elevation, the applicant shall install temporary delineation to clearly identify areas to be retained in a natural state. Trees to be preserved that are located adjacent to or in the area to be disturbed shall be clearly identified and protected by placing temporary fencing or similar approved method outside the dripline of each tree. The fences may be inspected and their location approved by the City.

2. Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.

3. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for preservation unless indicated on the approved grading plans. If grading or construction is approved within the drip line, a landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.

4. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Run-off should be directed away from trees designated for preservation.

D. Tree Replacement: Trees designated or approved for removal in accordance with Section 17.08.930 A.2 and A.3.b shall be replaced in accordance with the following standard.

1. Replacement trees shall be indicated on a tree-replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree-planting details, including species.

2. Replacement tree locations shall adhere to the wildfire mitigation goals for the project. The City's Urban Forester shall have the discretion to adjust the proposed replacement tree species or location based upon site-specific conditions.

3. Replacement trees shall be a minimum of 1 inch caliper for deciduous trees and a minimum height of 4 feet for evergreen trees.

4. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five-year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.

E. Enforcement:

1. All tree removal shall be done in accordance with the provisions of this ordinance. No trees designated for preservation shall be removed without prior approval of the City.

2. Should the developer or developer's agent remove, destroy, or damage any tree that has been designated for preservation, the City shall require the developer to replace the tree in accordance with this ordinance

and may fine the developer an amount established by the City. For trees that are removed or destroyed, the minimum amount of the fine shall be equal to the appraised value of the tree. The appraised value of a tree will be determined by a qualified appraiser using the standards specified by the International Society of Arboriculture as set forth in the most recent edition of their official publication "Guide for Plant Appraisal", developed by the Council of Tree and Landscape Appraisers.

#### Section 9

That a new Section be designated 17.08.935, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

~~17.08.930~~  
All buildings shall be designed and constructed in compliance with the following standards. To reduce hillside disturbance, buildings shall incorporate the following design requirements.

A. Building Design Requirements.

1. Roof material. Only Class A roof coverings listed and identified by an approved testing agency or approved non-combustible roof covering shall be used for new roofs or replacement of existing roofs.

2. Foundations. All structures shall have foundations that have been designed by a professional engineer licensed in the State of Idaho. The foundation design shall be based on a Geotechnical Engineers' recommendations.

~~17.08.930~~ Architectural features such as bay windows, decks, building step back, etc., shall be required on all exterior walls greater than 20 feet in height, as measured from lowest adjoining finish grade, not including gables. All architectural features shall have a minimum depth of one foot.

~~XXXXXXXXXX~~ A palette of colors approved by the Council shall be used for exterior walls, facades, and roofs. They shall have a Light Reflective Value (LRV) of forty (40) or less, per the manufacturers specifications. When such data is unavailable, compliance will be determined by a comparison of samples where data is available. This Light Reflective Value standard shall not apply within established residential areas. Window and door glazing shall be non-mirrored.

#### Section 10

That a new Section be designated 17.08.940, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **17.08.940 SENSITIVE SURFACE WATERS**

For development within 500 feet of a sensitive surface water body, the following additional standards shall apply:

- A. A Stormwater Management Plan shall be prepared by a Idaho licensed professional engineer or registered landscape architect with water quality training and experience. The plan shall include an evaluation of the impacts of the development as it relates to surface water quality of the adjacent water body, and provide recommendations for mitigation. The development of the property shall not create any impacts that cannot be mitigated. The quality of surface water runoff shall be protected by utilization of Best Management Practices (BMPs) identified in the DEQ manual entitled "Catalog of Storm-Water Best Management Practices for Idaho Cities and Counties". Development shall comply with Idaho Water Quality Standards.
- B. Density: The following densities shall apply to divisions of land, unless a deviation is granted pursuant to the planned unit development process, up to but not to exceed the density allowed in the underlying zone. The density ratio standard shall not apply to individual building permit applications on



existing parcels recorded prior to the adoption of this ordinance nor portions of a lot beyond the 500 foot boundary. See example below.

Average slope within 500 ft. boundary	Density See example below	Cluster Lots	Planned Unit Development Required	Maximum Driveway Length
15-25%	.5 acre.	Encouraged	No	250 feet
25.01 - 35%	1 acre	Encouraged	No	100 feet
Over 35%	2.5 acre	Required	Yes	100 feet

Example of a parcel split by the 500-foot overlay boundary:  
 15-acre lot zoned R-1  
 5 acres are within 500 ft of the water and that has a >35% slope;

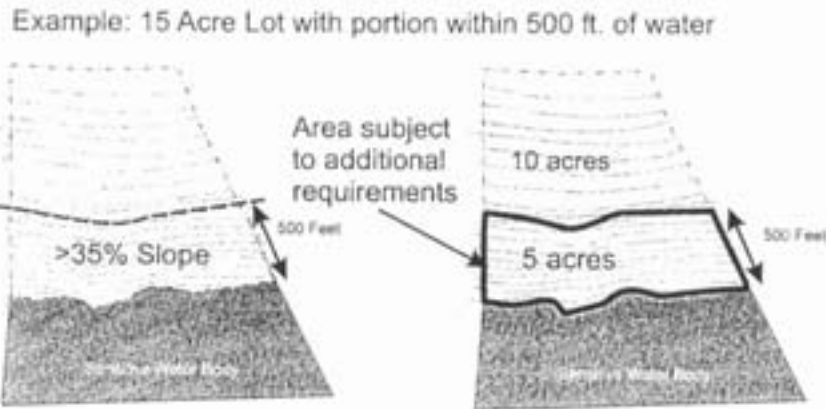


Exhibit 17.08.940A

The zoning density (theoretical lot density) for the area within 500 foot boundary =  $5 \text{ (area within boundary)} \div 2.5 \text{ (density factor for over 35\% slope)} = 2.0 \text{ units}$   
 Development within this area must be clustered and a part of a Planned Unit Development. Exhibit 17.08.940A

The density for the area outside of the 500 foot boundary =  $\text{lot area} \div 34,500 \text{ (standard minimum lot size for the R-1 district)} = 37$ . Note that the actual lot density would be affected by street design and other design factors.

C. Interagency Coordination: The City may request comments on the project from affected agencies, where

appropriate. Where coordinated permits are necessary, approvals from permitting agencies may be required.

- D. Waterfront Lots: For lots with frontage on sensitive water body, an undisturbed natural vegetation buffer shall be retained at the waterfront. A stairway, walkway, stairway landings, or a tram shall be allowed to encroach within the buffer. The buffer shall be a minimum of 25 feet from the high water mark of the water body. For purposes of this Ordinance, high water marks shall be considered to be the following elevations:

Coeur d'Alene Lake 2125.0 (N.G.V.D. 1929 datum), (2128 WWP datum)

Fernan Lake 2131.37 (Kootenai County Site Disturbance Ordinance)

The high water marks for the Spokane River shall be determined by on-site inspection of evidence of historical water levels.

#### Section 11

That a new Section be designated 17.08.945 be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **17.08.945 DEVIATION FROM DEVELOPMENT STANDARDS**

The developer, or the property owner, may request deviations from any of the development standards of the Hillside Overlay Ordinance to both the Planning Director and the Growth Services Director. Deviations may be granted only as listed herein:

- A. MINOR DEVIATIONS: The Planning Director and Growth Services Director shall notify the public of the request for minor deviation in accordance with 17.08.945(A)(6). After public notice and comment on the deviation request, the City Planning Director and Growth Services Director will review and decide on the proposed deviations. This decision may be appealed to the Planning Commission for approval or denial. Minor deviations may only be granted if all of the following circumstances are found to exist:

1. The deviation will result in equal or greater protection of the resources protected under this chapter;
2. The deviation is the minimum necessary to alleviate the difficulty;
3. The deviation does not conflict with Idaho Code, The City of Coeur d'Alene Comprehensive Plan and Zoning Ordinance.
4. The requested modification was not specifically appealed during the public hearing process; and
5. The requested modification will not cause adverse physical impacts on adjacent properties.

Deviations typical of this category include:

- a) Reduction of portion or all of the requirements for geotechnical study, grading plan, tree survey, etc. if the work is minor in nature or if adequate information already exist to determine the impact of the development.
  - b) Modification of dimensional requirements for driveway lengths, curb and sidewalk requirements, architectural features.
  - c) The use of seedlings (rather than 4ft - 8ft tall B&B trees) for tree replacements on steep slopes where there are shallow soils.
  - d) Deviation from the maximum cut and fill slopes and fill slope inclination all as defined in 17.08.920E.
6. Prior to granting or denying a minor deviation request, notice and opportunity to be heard shall be provided to property owners adjoining the parcel under consideration. The City shall cause notice to be mailed to adjoining property owners no less than seven (7) calendar days before application review. The applicant shall provide an accurate mailing list and shall be responsible all costs of public notice.

B. Substantial deviations may be granted by the Planning Commission to the conditions and limitations of the Hillside Development regulations, after public notice and hearing. This decision may be appealed the City Council for approval or denial. Substantial deviations may only be granted if all of the following circumstances are found to exist:

1. The deviation is the minimum necessary to alleviate the difficulty;
2. The deviation will result in equal or greater protection of the resources protected under this chapter;
3. The requested modification was not specifically appealed during the public hearing process; and
4. The requested modification will not cause adverse physical impacts on adjacent properties;
5. The deviation does not conflict with Idaho Code, The City of Coeur d'Alene Comprehensive Plan and Zoning Ordinance.

C. Planned Unit Developments. Modifications to the development standards of this ordinance approved through the planned unit development process (sections 17.07.205, et. seq.) shall not be subject to the foregoing review and hearing process for deviations.

Public notice for substantial deviations shall be pursuant to §67-6509 Idaho Code, and shall include mailed notice to abutting property owners not less than fifteen (15) days before the public hearing. The applicant shall provide an accurate mailing list and shall be responsible all costs of public notice.

## Section 12

That a new Section be designated 17.08.950, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

### **17.08.950 MAINTENANCE**

Maintenance requirements and responsibility shall be clearly identified for all projects where Best Management Practices are employed, including those for erosion and sedimentation control, storm-water management, and fuel modification for wildfire mitigation. When a storm-water system is designed to service more than one lot, a maintenance agreement between all parties that benefit from the system must be established, including assurance of adequate funding. Easements across private property for maintenance access to community storm-water systems shall also be required where necessary. All private maintenance agreements and required easements must be executed prior to issuance of certificate of occupancy, recordation of final plat, or similar approvals of the City.

In the event that appropriate maintenance of any storm-water system is not conducted, the City shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outlined in Section 12, below.

## Section 13

That a new Section be designated 17.08.955, be and the same is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

### **17.08.955 PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES**

If any violation of this ordinance occurs, the Growth Services Director, or his designee, may revoke the permit or order the work stopped by notice, in writing, served on any persons engaged in doing or causing such work to be done. Such person shall stop all site work until authorized by the Growth Services Director to proceed. The Growth Services Director, or his designee, may also withhold further issuance of permits. Stop Work orders may be appealed in the same manner as other appeals.

Violations of this Ordinance may be considered a criminal misdemeanor and shall be punishable by a maximum fine of \$300 or six (6) months in jail, or both. Each day of violation shall constitute a separate offense. The City may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

#### Section 14

Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

#### Section 15

The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

Section 16

This ordinance shall take effect and be in full force upon its passage, approval and publication in one (1) issue of the Coeur d'Alene Press, a newspaper of general circulation published within the City of Coeur d'Alene and the official newspaper thereof.

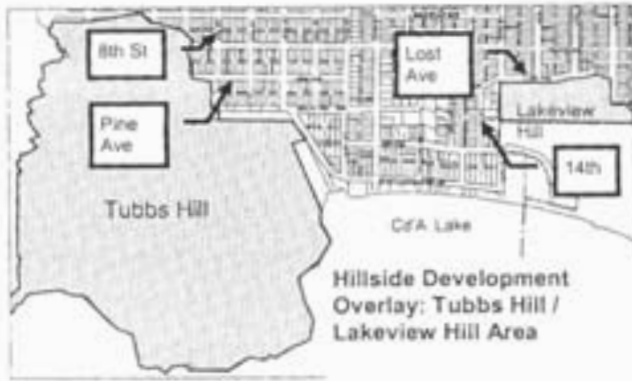
Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an ordinance of the City of Coeur d'Alene at a regular session of the City Council, March 4, 2003.

APPROVED by the Mayor this 4<sup>th</sup> day of March, 2003.

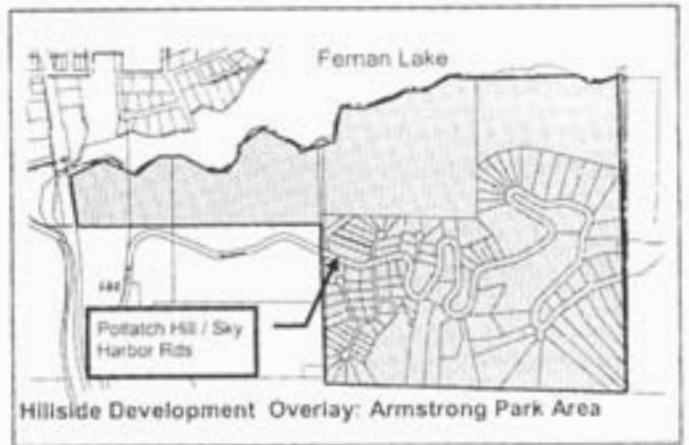
  
Sandi Bloem, Mayor

Attest:

  
Susan Weathers, City Clerk



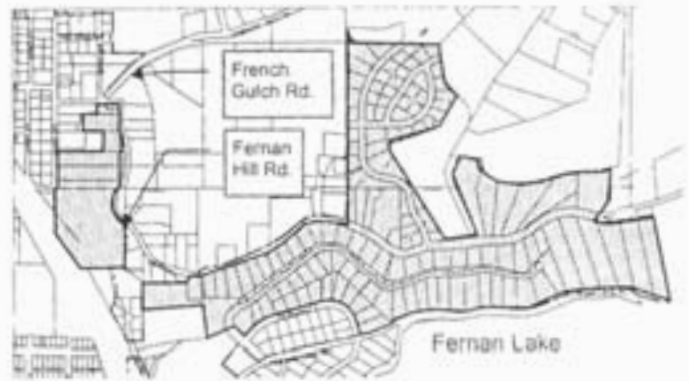
Hillside Development Overlay: Tubbs Hill / Lakeview Hill Area



Hillside Development Overlay: Armstrong Park Area



Hillside Development Overlay: NE Coeur d'Alene



Hillside Development Overlay: Fernan Hill Area



Hillside Development Overlay: Pine Hills / Foothills



Hillside Development Overlay: Stanley / Cherry Hill

EXHIBIT "A"