



Coeur d'Alene

CITY COUNCIL MEETING

September 4, 2007

MEMBERS OF THE CITY COUNCIL:

Sandi Bloem, Mayor

Councilmen Edinger, Goodlander, McEvers, Reid, Hassell, Kennedy

CONSENT CALENDAR

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT COEUR D'ALENE CITY HALL,
AUGUST 21, 2007

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Hall, August 21, 2007 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Al Hassell)	Members of Council Present
Woody McEvers)	
Loren Edinger)	
Deanna Goodlander)	
Dixie Reid)	
Mike Kennedy)	

CALL TO ORDER: The meeting was called to order by Mayor Sandi Bloem.

INVOCATION was led by Pastor Tim Remington, The Altar Church.

PLEDGE OF ALLEGIANCE: Councilman Kennedy led the pledge of allegiance.

PRESENTATIONS:

PRESENTATION – “2007-2008 BUDGET PREVIEW”: Finance Director Troy Tymesen noted that the proposed budget is on the City’s web site and if a citizen has a question on the budget they may submit it on the web site. Mr. Tymesen reviewed the Council's priorities set for the coming year and how these priorities have been incorporated into the proposed budget. He announced that the County has reported the City is projected to receive more revenue from new growth than originally anticipated and he proposed that these additional revenues be added to the Police Dept. budget for additional officers, support staff and whatever the new Chief deems necessary. Mr. Tymesen explained the different sources of revenue for the City which includes levy rates, new growth, valuations, etc.

In response web questions, Mr. Tymesen explained how the 3% increase to the City budget impacts the property tax levy rate. He went on to explain “Fund Balance”, as allowed by State statute, and the benefits of maintaining a healthy fund balance.

He announced that the public hearing on the proposed budget will be held September 4th at 6:00 p.m.

CONSENT CALENDAR: Motion by Reid, seconded by Edinger to approve the Consent Calendar as presented.

1. Approval of minutes for August 7, 2007.

2. Setting of the Public Works Committee and General Services Committee meetings for August 27th at 4:00 p.m.
3. RESOLUTION 07-054: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING BID AWARD AND CONTRACT WITH GINNO CONSTRUCTION, INC. FOR THE CONSTRUCTION OF THE FIRE DEPARTMENT ADMINISTRATION BUILDING; APPROVAL OF AN AGREEMENT WITH SCHOOL DISTRICT 271 FOR THE 2007/2008 SCHOOL RESOURCE OFFICER; APPROVAL OF A CONTRACT WITH H2O WELL SERVICE FOR THE INSTALLATION OF A TEST WELL IN THE HAWK'S NEST SUBDIVISION AND APPROVAL OF CHANGE ORDER NO. 1 TO THE AGREEMENT WITH INTERSTATE CONCRETE & ASPHALT FOR THE RAMSEY ROAD RECONSTRUCTION PROJECT.
4. Approval of bills as submitted and on file in the City Clerk's Office.
5. Award of Bid for the purchase of Three Fire Department Vehicles
6. Approval of beer/wine license for 4th Street Beverage Shack.
7. Setting of Public Hearing for O-0-07C - Modification to East Infill Boundary for September 18, 2007.

ROLL CALL: Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye; Reid, Aye; Edinger, Aye. Motion carried.

APPOINTMENT TO LIBRARY BOARD: Motion by Kennedy, seconded by Goodlander to re-appoint Steve McCrea to the Library Board. Motion carried.

ORDINANCE NO. 3308

EMERGENCY PROCLAMATION

AN ORDINANCE DECLARING AN EMERGENCY AND BANNING SMOKING AND ALL ACTIVITIES CAPABLE OF CREATING AN OPEN FLAME ON ALL CITY OWNED OPEN SPACE/NATURAL AREAS INCLUDING: TUBBS HILL, CHERRY HILL PARK, CANFIELD MOUNTAIN TRAIL AREA AND VETERAN'S CENTENNIAL PARK; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE SHALL BE A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$1,000.00 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; TEMPORARILY SUSPENDING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE UPON POSTING IN FIVE PUBLIC PLACES WITHIN THE CITY LIMITS.

Motion by Goodlander, seconded by Edinger to ratify Ordinance No. 3308, a Proclamation of Emergency, signed by the Mayor on August 8, 2007.

ROLL CALL: Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, aye; McEvers, Aye. Motion carried.

Motion by Edinger, seconded by Goodlander to suspend the rules and to adopt Ordinance No. 3308 by its having had one reading by title only.

ROLL CALL: Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye. Motion carried.

PUBLIC QUESTIONS: The City Council set aside this time for any citizen to ask the Council any questions they may have about City activities, projects or the functions and operations of their City government. The Mayor noted that with 15 people signed up, that each person would be allowed the usual 5-minute time limit to ask their question.

CROSSWALKS IN SCHOOL ZONES: Roy Wargi, E. 2022 Cd'A Avenue, voiced his concern with the crosswalks in school zones. He believes that the City needs to have more crosswalks than two per intersection; but, rather, should have 4 per intersection. City Engineer, Gordon Dobler, explained that at the intersection of Cd'A Ave and 21st there are crosswalks on the north side and east side of that intersection and Mr. Wargi believes there should be a crosswalk on the west side of the street. He explained that the two crosswalks are based on the school walking route established by the School District. He noted that at one point the City had worked with the school regarding placing crossing guards at this location.

MOTION: Motion by Reid, seconded by Kennedy to direct Gordon to discuss this issue with the School District and provide his recommendations to the Public Works Committee. Motion carried.

JEWETT HOUSE USE: Joan Orr, 838 N. 7th, Cd'A, expressed her concerns that the Jewett House is not listed in the phone book as a senior center. Since the City allows weddings at the facility, she believes that this is in violation of the deed of trust. Recreation Director, Steven Anthony, noted that it is listed in the Blue Pages of the phone book under City Government and on the City's web page. Ms. Orr also asked that there be a newspaper article advertising the Jewett House as a senior center. Mr. Anthony noted that the weddings were allowed through an addendum to the deed of trust and that any revenue raised through weddings is used on improvements to the Jewett House. He also noted that there are flyers at the Lake City Senior Center telling seniors about the Jewett House and the activities available to them.

BANNING OF CERTAIN BREEDS OF DOGS: Jody Campbell, 16598 N. Valor Road, Rathdrum, Idaho, voiced her opposition to banning certain dog breeds in the City. She requested that members of the Council attend a conference that will be held in Spokane regarding dogs. She also noted that if the City bans pit bulls there is a service dog that is part pit bull. City Administrator, Wendy Gabriel, reported that the Legal Department is

still reviewing this issue including adding more “teeth” to the ordinance making owners more responsible. She noted that the Legal Department’s recommendation could be coming before the Council in the next 30 days.

CITY RIGHTS-OF-WAY RESPONSIBILITY: Anika Connaway, 1418 N. 2nd Street, asked about the City’s jurisdiction of the public City’s rights-of-way, in particular she asked who owned the underlying land within the rights-of-way. She questioned who is responsible for upkeep as well as who is liable for the rights-of-way especially as they relate to sidewalks and trees. Additionally she wanted to know why she didn’t have a choice with the liability and who does the land belong to. Mike Gridley explained that there are different kinds of rights-of-way. For example, rights-of-way for roadways are dedicated at the time of the subdivision. Typically the homeowner owns the lot where there are sidewalks, but the rights-of-way are dedicated by the developer of the subdivision to grant the rights-of-way. Improvements such as sidewalks and street trees are improvements to the property and thus the responsibility of the property owner. Mayor Bloem noted that the issue of who owns the trees in rights-of-way will be referred to the Parks Department.

Mr. Gridley continued that liability is negligence which is a result of lack of normal and ordinary care and maintenance. Therefore, if the City has delegated the maintenance of the trees to the property owner, then the property owner has the liability of maintaining the tree. Mrs. Connaway announced that as a member of the Urban Forestry Committee that if she cannot fully understand the regulations regarding street trees then how does the City expect property owners to know all the rights and responsibilities of street trees, sidewalks, etc. The Mayor noted that Mrs. Connaway has brought up some good points and the City will clarify these issues. Mr. Gridley noted that it is the responsibility of the homeowner to maintain sidewalks and it is the City’s responsibility to make sure that the homeowner maintains the sidewalks.

BANNING CERTAIN DOG BREEDS: Judy Secaur, 4102 Nez Perce Rd., spoke in opposition to banning certain breeds of dogs. "NAIA" is an organization that has some proposals on the how to correctly create a dog law. She announced that there is an American Kennel Club (AKC) sponsored dog show in the City and if certain dog breeds are banned then the AKC will no longer sponsor this dog show. She also asked, in regard to mixed breeds, who will make the determination of which breed a dog is. She noted that her club feels that the City should create laws that hit irresponsible dog owners in the pocket book.

FUND BALANCE: Kathy Sims, 108 Teresa Drive, Fernan Village, spoke in opposition to having City Fund Balance and believes that the City should run without any fund balance. Rather any fund balance should be used to lower property taxes. She believes that the City appropriates funds after the City has spent the money. Finance Director Troy Tymesen responded that the “rainy day fund” is a newspaper term and it is not a City fund. He noted that trust and agency funds are not supported by property taxes. He explained that upcoming amendments to the budget reflect the revenue received from the voter-approved G.O. Bonds for the new Library and Public Safety improvements. He

noted that he has worked with Kathleen Sims in trying to explain the Fund Balance, the impact of the G.O. Bonds and amending the budgets. Councilman Hassell explained the purpose of Trust and Agency Funds which, basically, are funds received in trust to be paid out, such as the City collects garbage payments for the County and then passes the funds received onto the County. Mr. Tymesen further explained that the Fund Balance does not grow due to excess property tax. In fact, property taxes are not added to the Fund Balance, but from funds of other revenues received such as building permits. He explained what are Enterprise Funds and that these funds are not property tax supported but are fee for service.

DOG SHELTER: Bonnie Niles, 918 N. 9th Street, voiced her disappointment in the City's lack of being a dog friendly community. She believes that the City is euthanizing animals due to lack of space. She believes that there is poor communication between the various cities if a loose dog is picked up. She also wanted to know if there is any budgeted amount for a new animal shelter. She also believes that the City needs to work on a population control plan for pets. City Administrator, Wendy Gabriel, reported that the City is currently working on the City's options for an animal shelter including working with the Kootenai Humane Society and the County for a state of the art regional shelter/pound. She noted that there is no dollar amount in the budget for a new dog pound but the City will amend the budget when we know the exact dollar amount. Doug Eastwood, Parks Director, reported that as part of the Parks Long Range Plan, one of the top requests received is a dog park. The Parks Department has researched what is the best type of facility to construct. He noted that the City is currently short on land and cash for a dog park – the City would need at least 5 acres for the park and dog parks have higher maintenance costs than other parks. He noted that the City does allow people to walk their dogs on a leash along the Centennial Trail; however, the trail goes through the City Park which seems to cause some confusion with residents so new signage has been posted in the City Park noting where dogs are allowed and where they are prohibited. Chief Carpenter noted that all impounded dogs go to one shelter, so citizens should know where to go to locate their lost dog.

URBAN RENEWAL: Dan Gookin, 714 W. Empire Avenue, speaking on behalf of Gunter Milo, voiced Mr. Milo's concerns about the City's Urban Renewal Agency and that he believes it is in violation of Idaho laws. Councilman Hassell, in response to the question of how the plan was changed and what was the plan, noted that there was a very extensive plan developed and he believes that the original intent of the plan has not been varied including the original districts developed and their ability to create new districts. Councilman Reid noted that the plans are not as specific as some people would like simply because no one can predict projects down to the level of specificity critics have demanded. Mayor Bloem noted that there was a public hearing with a very large public turnout to the point that the hearing was held at the Coeur d'Alene High School. She noted that when the Urban Renewal District was created the downtown area had a 50% vacancy and that vacancies in the downtown are far lower now. Mayor Bloem also suggested that Mr. Milo call either the City or the LCDC to further answer any of his concerns.

CITY BUDGET AMENDMENTS: Virginia Monette, 1371 W. Coral Drive, asked the City how and why the City spent \$18,000,000 that was not budgeted. She asked Mr. Tymesen to mail her his answer.

ZONE CHANGES: John Williams, 6222 Harcourt Drive, ask the Council, “What are you thinking?” in regard to the recent zone changes being made. He noted that one zone change in particular was a PUD and zone change for the property next to Fred Meyer for senior housing, yet nothing has been done on this property. Also, everyone is talking about workforce housing, yet the Council is changing property to a commercial zone, such as the zoning on 3rd and 4th Streets being changed to commercial. He commented that the reason there are so many help wanted signs is because people can’t afford to live in the area. He urged the Council to look at the past and see why prior Councils zoned property residential. Councilman McEvers asked Dave Yadon, Planning Director, for some background on the PUD time limits and history of the City’s zoning. Mr. Yadon explained that PUD’s have a 1-year limit from the date of approval, that the developer needs to submit a **Final Development Plan** and that the State of Idaho has laws that regulate how soon a Council can revert a zoning back to the prior zoning. He noted that the original City-wide zoning was done in 1946. In 1982 new zoning was adopted Citywide and then the question was: which takes precedence, zoning regulations or Comprehensive Plan. He also noted that in 1982, the City was half the size it is today and that the Council and Planning Commission planned as best they could to predict what the City would look like in the future 20-30 years and designated new zoning in conformance with the Comprehensive Plan.

URBAN RENEWAL AGENCY: Sharon Culbreth, 206 Hubbard, Cd’A, requested that the City strictly oversee the operations of the Lake City Development Corporation (LCDC). She noted that by her reading of the State law, LCDC must provide financial impact development statements for each urban renewal district. She believes that LCDC has failed to develop financial impact statements on each district they have created. She requested that the Council require LCDC to develop financial impact statements on every taxing district impacted by the urban renewal agency's existence. She announced that the City of Nampa's Urban Renewal District is being sued by the School District. Councilman Kennedy asked Ms. Culbreth if she talked with the lawyer for the School District that is suing Nampa. He noted that he had contacted the attorney for the plaintiff, who informed him that the financial impact statement is not the issue of the plaintiffs' complaint and a correlation cannot be made with what is happening in Nampa with the City of Coeur d’Alene.

Matt Roetter, N. 9890 Valley Way, Hayden, Idaho, believes that the Valley View School District is suing the City of Nampa because the school district is losing tax dollars due to Urban Renewal Districts (URDs). Councilman Kennedy asked if Mr. Roetter had talked to the School District. Mr. Roetter responded that he has not talked with their attorneys. Councilman Kennedy pointed out that the boundaries in the Nampa URD and the boundaries in the City’s URDs are drastically different and cannot be compared. Ms. Culbreth interrupted commenting that the school district is impacted by URDs. Mr.

Roetter continued that he believes that the taxes from increment assessed value does not go to School Districts. Mayor Bloem noted that last year, the M & O for schools had been removed from property taxes. Finance Director, Troy Tymesen, noted that there will be proposed legislation to correct that URDs receive school bond revenues. Mr. Roetter asked what is the true impact the URDs have on other taxing districts. Councilman McEvers noted that the City seems to be taking a bashing for following state rules. Mr. Roetter agreed but asked that LCDC just provide a report on what the impact is on all other taxing districts. Mayor Bloem confirmed that the City will make sure that LCDC is following the law. Councilman Kennedy asked Mr. Roetter if he would be willing to go before the State Legislature with Councilman Kennedy to lobby for more tax dollars for schools. Mr. Roetter said that he would agree only if the City required LCDC prepare a financial impact statement for every taxing district affected by a URD. Mayor Bloem asked that everyone look at balance, what LCDC is producing and what it is costing.

RECESS: Mayor Bloem called for a recess at 8:35 p.m. The meeting reconvened at 8:43 p.m.

SWALES: Larry Siglin, 1988 E. Gunther Ave., voiced his concern that when the City decided to put in swales instead of an underground piped storm water system they should have accepted maintenance responsibility for them. He believes that wherever there are swales without homeowners associations, the swales are full of weeds. Although the City has made it the responsibility of the homeowner to maintain the swales, he believes that swales are City property and, therefore, the City needs to plant, maintain and repair all swales within the City. Another issue is that in 1999 the City annexed Bentwood Park into the City, which also provided a bicycle path and since the City owns the bike path the City needs to maintain the path next to his property which includes painting lines, adding signage, sweeping and snow plowing the trail. Deputy City Administrator, Jon Ingalls, responded that it is the homeowner's responsibility to maintain swales if the swale is in the front yard or if the swale is in the back yard. Mr. Siglin responded that this issue will probably go to litigation since he believes that it is the City's property and therefore the City should be maintaining all swales in the City.

PERSON'S FIELD: Jodi Teter, 1320 Pennsylvania Avenue, asked why the City has not budgeted any money to purchase the School District's half of Person's Field. She requested that the City Council purchase the other half of Person's Field and the neighborhood have input into how the park is to be better developed. She also asked for the Council's guarantee that this field will remain a park in perpetuity. Doug Eastwood explained that the reason there is no funding in the budget is because the School District has not offered it up for sale. He noted that about a year ago, there was a meeting with the neighborhood and the school district, and at that time he had asked that nothing be done to the field until the Parks Master Plan has been completed. He noted that the school district is aware that the City is interested in acquiring the other half of Person's Field. Mr. Eastwood noted that using Person's Field for affordable housing is a rumor and that neither the Council nor the Parks Department has ever considered using this property for affordable housing. Councilman Edinger reaffirmed that there has never

been any talk about the City Council using Person's Field for affordable housing and cautioned residents in believing everything they read in the newspaper. Mr. Eastwood noted that the City has no history of ever liquidating park land and, historically, the City has acquired parkland.

BIKE LANES: Dwight McCain, 1130 E. Timber Lane #7, commented that he does not like to use the City's bike lanes because these lanes appear to be the last part of the roadway that are swept. Deputy City Administrator Jon Ingalls responded that the City does sweep all Class II bike lanes such as the lanes on 15th Street and on Mullan Avenue. Most arterials get swept weekly. Mr. McCain commented that 4th Street has leaves from last fall so either the City does not sweep that street or the equipment is defective. Jon Ingalls explained that sometimes depending on conditions, sweepers cannot get exactly up to the curb line due to trees and limbs extending into the sweepers path. Mayor Bloem noted that the Bike/Ped. Committee is a very active group and invited Mr. McCain to contact this group with his areas of concern.

CODE ENFORCEMENT: Susan Snedaker, 821 Hastings, thanked Troy Tymesen and Vonnie Jensen for their time and energy addressing her questions on the budget. She also thanked the Council for making Code Enforcement a priority. She asked the Council if the City is streamlining the code enforcement process whereby we are providing more clout with enforcement and minimizing the time required in which to resolve code compliance complaints. Deputy City Administrator Jon Ingalls reported that Code Enforcement is in transition in that it is now being done in house within the Police Department. City Attorney Mike Gridley noted that the new Code Enforcement Officer is turning over noncompliant infractions to the Legal Department sooner than was previously done. He also explained that code enforcement complaints in the court system take a lower priority and the reason why it takes the time it does to have people comply.

ANIMAL SHELTER: Rhonda McGee, 2251 Harrison Avenue, thanked the Mayor and Council for their professionalism in which they handled this meeting and other City matters. She voiced her concerns after having recently read in the newspaper that the issue of a City animal shelter was just now being addressed due to Post Falls bumping up their charges to the City. She also would like to see the City take a major role in determining the site of a future animal shelter in that she believes it should be more centrally located within the City and the City should be working more with the County than the Kootenai Humane Society for a future site. She would like to have a staff person assigned to work with the County. City Administrator Wendy Gabriel responded that she has talked with the County about a possible joint site. The current option is about 12 minutes from the City and this regional facility would be constructed in partnership with the County and Kootenai Humane Society. Ms. McGee suggested that a possible location would be around the transfer station on Ramsey Road or out at the airport property.

FIREWORKS BAN: Meredith Bryant, 1988 E. Gunther, commented that if Councilman McEvers needs some help in banning fireworks in the City she would be willing to help as she is a dog owner and fireworks have such an adverse effect on her dogs. She

believes that the first step would be to not allow the sale of fireworks within the City.

MAYOR/COUNCIL COMMENTS:

Mayor Bloem commented that this evening's meeting was very successful and thanked the staff for participating as well as the citizens who came and participated in this meeting. Councilman Reid complimented the citizens for bringing to the Council's attention the variety of issues they brought forward tonight.

EXECUTIVE SESSION: Motion by Reid , seconded by McEvers to enter into Executive Session as provided by I.C. 67-2345 SUBSECTION A: To consider hiring a public officer, employee, staff member or individual agent; and SUBSECTION F: To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

ROOLL CALL: Hassell, Aye; Goodlander, aye; Kennedy, Aye; McEvers, Aye; Reid, Aye; Edinger, Aye. Motion carried.

The session began at 9:35 p.m. Members present were the Mayor, Council, City Administrator, and City Attorney.

Matters discussed were those of personnel and litigation.

No action was taken and the City Council returned to regular session at 10:00 p.m.

ADJOURNMENT: Motion by Edinger, seconded by Kenendy to recess this meeting to Thursday, August 30, 2007 at 7:00 a.m. at the Breakfast Nook for a Joint City Council/County Commissioner meeting.

The meeting adjourned at 10:00 p.m.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, CMC
City Clerk

RESOLUTION NO. 07-055

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING DECLARING CERTAIN COMPUTER HARDWARE AS SURPLUS PROPERTY; APPROVAL OF A CONTRACT WITH KOOTENAI COUNTY FOR ELECTION SERVICES; RENEWAL OF DOCK LEASES FOR (A) LAKE COEUR D' ALENE CRUISES, (B) BROOKS SEAPLANE AND (C) COEUR D' ALENE PARASAIL & WATER SPORTS; RENEWAL OF LEASE AGREEMENT WITH GORDON AND DAWNA ANDREA FOR FUNTASTIC FOOD CONCESSIONS; RENEWAL OF USE AGREEMENT WITH COEUR D' ALENE SOCCER ASSOCIATION; APPROVAL OF A CONSULTING SERVICES AGREEMENT WITH AMERICAN APPRAISAL FOR THE CITY'S CAPITAL ASSET VALUATION; APPROVAL OF CHANGE ORDER NO. 10 WITH CONTRACTOR'S NORTHWEST FOR POLYMER EQUIPMENT REPLACEMENT; APPROVAL OF A RAILROAD CROSSING AGREEMENT WITH BURLINGTON NORTHERN SANTA FE; APPROVAL OF SS-15-04 ACCEPTANCE OF IMPROVEMENTS WITH MAINTENANCE/WARRANTY AGREEMENT FOR STAGECOACH COMMERCIAL PARK; APPROVAL OF THE LANDINGS AND HAWK'S NEST ANNEXATION AGREEMENT AMENDMENTS; APPROVAL OF S-3-07 FINAL PLAT APPROVAL AND SUBDIVISION IMPROVEMENT AGREEMENT FOR SORBONNE ADDITION AND APPROVAL OF A PROVISION FOR FACILITY UTILIZATION AGREEMENT WITH KOOTENAI MEDICAL CENTER, DEPARTMENT OF REHABILITATION SERVICES.

WHEREAS, it has been recommended that the City of Coeur d'Alene enter into the contract(s), agreement(s) or other actions listed below pursuant to the terms and conditions set forth in the contract(s), agreement(s) and other action(s) documents attached hereto as Exhibits "1 through 12" and by reference made a part hereof as summarized as follows:

- 1) Declaring certain computer hardware as surplus property;
- 2) Approval of a Contract with Kootenai County for Election Services;
- 3) Renewal of Dock Leases for:
 - (A) Lake Coeur d' Alene Cruises
 - (B) Brooks Seaplane and
 - (C) Coeur d' Alene Parasail & Water Sports
- 4) Renewal of Lease Agreement with Gordon and Dawna Andrea for Funtastic Food Concessions;
- 5) Renewal of Use Agreement with Coeur d' Alene Soccer Association;
- 6) Approval of a Consulting Services Agreement with American Appraisal for the city's Capital Asset Valuation;

- 7) Approval of Change Order No. 10 with Contractor's Northwest for Polymer Equipment Replacement;
- 8) Approval of a Railroad Crossing Agreement with Burlington Northern Santa Fe;
- 9) Approval of SS-15-04 Acceptance of Improvements with Maintenance / Warranty Agreement for Stagecoach Commercial Park;
- 10) Approval of (A) The Landings and (B) Hawk's Nest Annexation Agreement Amendments;
- 11) Approval of S-3-07 Final Plat Approval and Subdivision Improvement Agreement for Sorbonne Addition;
- 12) Approval of a Provision for Facility Utilization Agreement with Kootenai Medical Center, Department of Rehabilitation Services;

AND;

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreements or other actions; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City enter into agreements or other actions for the subject matter, as set forth in substantially the form attached hereto as Exhibits "1 through 12" and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreements or other actions so long as the substantive provisions of the agreements or other actions remain intact.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such agreements or other actions on behalf of the City.

DATED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER REID Voted _____

COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER HASSELL Voted _____

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

Date: August 28, 2007

From: Brandon Russell, Database Administrator

RE: Declare old computer hardware as surplus

Decision point:

To declare listed computer hardware as surplus so it can be auctioned off to free up storage space.

History:

This older hardware cannot effectively be re-used internally. The listed hardware consists of old mainboards, problematic printers, laptops and hard drives. This equipment is all outdated, and under capacity. The mainboards have been replaced with faster technology. The printers are costing more in maintenance than a newer printer is worth. The laptops are many years old and can not run the newer applications the city uses. The hard drives are older technology and are not capable of holding as much information as newer drivers. The hard drives have been completely erased of any information. They are blank without any operating system.

Holding onto this hardware is taking up room in our storage areas.

Financial Analysis:

These items are of little value to the city, and cannot be effectively re-used anywhere within the city.

Performance Analysis:

This old equipment is taking up space, and makes it difficult to work efficiently in our areas. Declaring this as surplus will free up storage room.

Quality of Life Analysis:

Declaring these items as surplus will allow for Information Technology to auction off older hardware.

Decision point/recommendation:

Approve the listed hardware as surplus so Information Systems can proceed with public silent auction on city website for a two week period of time. Any remaining surplus will be considered zero value, and disposed of.

8/5/2007				
Item	Brand	Model	S/N	Asset Tag
Monitor 17" CRT	KDS works	VS-7	1745BA418019389	1880
Monitor 17" CRT	KDS works	VS-7	JM85274620	2347
Monitor 17" CRT	KDS works	VS-7	0791216697	1728
Monitor 17" CRT	KDS works	VS-7	7143DF000946	1717
Monitor 17" CRT	KDS works	VS-7	1745AAB04027405	2024
Monitor 17" CRT	KDS works	VS-7		1701
Monitor 17" CRT	KDS works	VS-7		none
Monitor 17" CRT	AOC works	LM729	0761VAC0SPNC	2537
Monitor 17" CRT	KDS works	VS-7	N7HJ01F067351	1767
Monitor 17" CRT	KDS works	X-FLAT	17418AC13604255	1982
Monitor 17" CRT	KDS works	VS-7	1745AAB17093874	2029
Laptops	Compaq w/power cord (keybrd fails occasionally)	Armada 4120T	G733HZA320589	none
Hard Drives (internal)				
	3 20 GB drives mostly Western Digital			
	22 20 GB drives mostly Western Digital	n/a	n/a	n/a
	21 6+ GB Mostly Western Digital	n/a	n/a	n/a
	43 2+ GB misc brand drives	n/a	n/a	n/a
	2 4+ GB Mostly Western Digital & Caviar	n/a	n/a	n/a
	16 8 GB drives, Western Digital	n/a	n/a	n/a
	1 1+ GB Mostly Caviar & Fujitsu	n/a	n/a	n/a
	1 unknown, Quatern	n/a	n/a	n/a
	1 Fujitsu 13 GB	n/a	n/a	n/a
	4 15 GB Western Digital	n/a	n/a	n/a
	5 10+ GB Western Digital	n/a	n/a	n/a
	10 Misc brand drives under -1 GB	n/a	n/a	n/a
	misc sizes and brands that are bad drives	n/a	n/a	n/a

CITY COUNCIL

DATE: August 16, 2007

FROM: Susan Weathers, CMC
City Clerk

SUBJECT: Contract with Kootenai County for Election Services

DECISION POINT:

Would the City Council approve an agreement with Kootenai County to provide certain election services for the November 6, 2007 City General Election?

HISTORY:

For more than 20 years, the City of Coeur d'Alene has contracted with Kootenai County Clerk to assist the City Clerk in conducting city elections.

The attached agreement outlines the services to be provided by the County.

FINANCIAL ANALYSIS:

The budget amount of \$17,000 for the upcoming election includes reimbursement to the County for the proposed services to be offered. These services include county staffing for absentee voting (both mailed and in person), recruiting and training Election Day judges and clerks, Election Day supplies, computer equipment and printing of sample and official ballots.

PERFORMANCE ANALYSIS:

Since Kootenai County Clerk has an elections division, his staff provides invaluable experience and expertise to assist the residents in the voting process. Additionally, without the use of the County elections equipment, the City Clerk would have to hand count all ballots which would greatly increase the time for preparing the election returns. Additionally, due to the limited staff in the City Clerk's Office, by contracting with the County, we can provide mailing of absentee ballots to the community and expand the locations for in-person absentee voting.

DECISION POINT/RECOMMENDATION:

It is recommended that the General Services Committee adopt a resolution authorizing the contract with Kootenai County for election services.

AGREEMENT

THIS AGREEMENT, made by and between the **City of Coeur d'Alene**, a municipal corporation of the state of Idaho (hereinafter referred to as "the City"), and **Kootenai County**, a political subdivision of the state of Idaho (hereinafter referred to as "the County");

WITNESSETH:

WHEREAS, the City and the County, pursuant to the provisions of Idaho Code § 67-2332, may enter into agreements enabling each to cooperate with the other to provide services and facilities for their mutual social, political and economic advantage; and

WHEREAS, upon request and recommendation of the City Clerk, the City Council at its regular meeting on the 4th day of September, 2007 found and declared it to be in the best public interest of the City to utilize the office of the Clerk of the District Court of Kootenai County, Idaho, who is the *ex officio* auditor and recorder for the County, to conduct the city elections for the City to be held on November 6, 2007, under the supervision of the City Clerk.

NOW, THEREFORE, in consideration of the premises, it is agreed:

1. The Clerk of the District Court, subject to supervision and direction of the City Clerk and further subject to and in accordance with all the pertinent provisions of Titles 34 and 50, Idaho Code, shall perform the following duties of the Chief Election Official for the City in the conduct of the city election to be held on November 6, 2007, including but not limited to:
 - a. General supervision of all election judges, clerks and other election officials for each polling place in each precinct.
 - b. Comply with and require compliance by all election judges of the provisions of Titles 34 and 50, Idaho Code.
 - c. Prior to the city election, carry on a program of in-service training for all judges, clerks, and other election officials for the administration of the election laws in the conduct of said election by said local election officials.
 - d. During the registration of qualified City electors, update all registration cards to determine whether or not such have previously registered, to otherwise do all other things required by law in maintaining and keeping current registration records of qualified electors for the city elections, and to provide poll book computer printouts for each precinct for the city elections.

- e. Subject to any applicable election law, devise, prepare and use in the administration of the city elections, the ballots, papers, documents, records and other materials and supplies required or permitted by the pertinent election laws, or other necessary requirements in the administration of the city elections.
- f. Provide one or more pieces of machinery or equipment necessary to automatically examine and tally optical scan ballots upon which a voter records his or her vote, and shall otherwise comply with, and require compliance by all election officials pursuant to Chapter 24, Title 34, Idaho Code, as to the use of said vote tally system and in particular the following:
 - 1) Section 34-2414: Prepare, provide and distribute all ballots, printed matter, and other supplies within a proper and reasonable time before the election to each election board at each polling place within each precinct;
 - 2) Section 34-2415: Prepare polling places for election by each election board of each election precinct;
 - 3) Section 34-2416: Prepare all machines and equipment for the said election, thoroughly inspecting and testing the computer or vote tally machines before and after counting the optical scan ballots to be able to file a certificate as to the accuracy of said vote tally machines; and
 - 4) Section 34-2418: Prepare optical scan ballots.
- g. Comply with the provisions of Chapter 10, Title 34, Idaho Code (Absentee Voting), and in particular by providing an absentee elector polling place, the voting booth and other necessary supplies as required by law.

Through and including any election contests:

- 1. The City shall publish any and all election notices required for this election.
- 2. The City shall pay the County an administrative fee for the reasonable costs and expenses of the Clerk of the District Court in performing this agreement in the applicable amount shown below:

Registered Voters	Fee
5,000 or fewer	300.00
5,001 to 10,000	400.00
10,001 or more	500.00

In addition, the City shall pay and reimburse the County for its proportionate share of the reasonable costs and expenses incurred by the Clerk of the District Court in performing this agreement.

3. The City further agrees to provide a proportionate share of the reasonable compensation for election judges and clerks.
4. The parties agree that the County is the independent contractor of the City and in no way an agent of the City, and that no joint venture shall be created by virtue of this Agreement. The City shall have no control over the performance of this Agreement by the County or its employees, except to specify the time and place of performance, and the results to be achieved. The City shall have no responsibility for security or protection of the County's supplies or equipment.
5. Each party agrees to indemnify, defend, and hold the other harmless, and its officers, agents and employees, from and against any and all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or in connection with the acts and/or any performances or activities of that party, or its agents, employees, or representatives, under this Agreement.
6. Each party agrees to obtain and keep in force during its acts under this Agreement a comprehensive general liability insurance policy in the minimum amount of \$500,000.00, or equivalent self-insurance, to protect the other party, and its officers, agents and employees, from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with the acts of that party.
7. Each party shall maintain in full force and effect workers' compensation insurance for itself and for any agents, employees, and staff that it may employ.
8. Each party agrees to comply with all federal, state, city, and local laws, rules and regulations.
9. This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Agreement, are valid or binding. This Agreement may not be enlarged, altered modified or amended except upon agreement of the parties hereto.
10. This Agreement shall be governed by and interpreted under the laws of the State of Idaho. Venue for any dispute arising under this Agreement shall be in Kootenai County, Idaho.
11. Reasonable attorney fees shall be awarded to the prevailing party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

**KOOTENAI COUNTY
CLERK OF THE DISTRICT COURT**

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**

Dan English, Clerk

Rick Currie, Chairman

**ATTEST:
DANIEL J. ENGLISH, CLERK**

By: _____
Deputy Clerk

CITY OF COEUR D' ALENE

Sandi, Bloem, Mayor

ATTEST:

Susan Weathers, City Clerk

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

Date: August 13, 2007

From: Doug Eastwood, Parks Director

SUBJECT: COMMERCIAL DOCK LEASE EXTENSIONS

DECISION POINT:

Recommend to the City Council to extend the dock leases through September 2011 for Brooks Seaplane Service, Coeur d'Alene Lake Cruises and Coeur d'Alene Parasail and Water Sports. Also consolidate into one contract with CDA Parasail and Watersports Bays 4 and 9.

HISTORY:

Each of the above vendors has an extension renewal clause in their contracts to renew for two additional years prior to the close of the current season. The renewal is predicated on history of use, compliance with rules and regulations and on-time payment. The aforementioned vendors have all been exemplary in all areas.

FINANCIAL ANALYSIS:

The contact amounts for the lease agreements goes into the Parks Capital Improvement fund for the acquisition and development of new park land. This is a very good revenue source for the department. The average monthly cost is approximately \$835.00 per bay, per month. We do not collect on a per month basis; the amount for the entire season is paid prior to the beginning of the season.

PERFORMANCE ANALYSIS:

Each of the vendors do a very good job providing aquatic recreation activity and they all do an excellent job of providing customer service and a positive image for the City of Coeur d'Alene.

DECISION POINT:

Recommend a two year extension on the lease agreements for Brooks Seaplane, Coeur d'Alene Lake Cruises, and Coeur d'Alene Parasail & Water Sports. Consolidate bay 4 and 9 into one contract for CDA Parasail & Watersports.

SIXTH EXTENDED LEASE AGREEMENT

THIS LEASE, entered into this 4th day of September, 2007, by and between the **CITY OF COEUR D'ALENE**, a municipal corporation organized and existing under the laws of the state of Idaho, whose address is 710 E. Mullan Avenue, Coeur d'Alene Idaho 83814, hereinafter referred to as the "Lessor," and **LAKE COEUR D'ALENE CRUISES, INC.**, an Idaho Corporation with its principle place of business at PO Box 6200, Coeur d'Alene, Idaho 83816-1937, hereinafter referred to as the "Lessee,"

WITNESSETH:

That the Lessor, for and in consideration of the rents and covenants hereinafter mentioned to be paid and performed by the Lessee, does hereby lease and let unto the Lessee the following described moorage along the City Dock between Independence Point and Hagadone Hospitality Company property, to wit:

THOSE SPACES DESCRIBED AS BAY 1, BAY 2, AND BAY 3
ON THE EAST SIDE OF THE CITY DOCK; AND

THOSE SPACES DESCRIBED AS BAY 6, BAY 7, AND BAY 8
ON THE WEST SIDE OF THE CITY DOCK.

Said bays are depicted on the attached drawing identified as Exhibit "A," and by this reference incorporated herein.

Section 1. Term: The term of this lease shall be four (4) years commencing April 1, 2007, and ending March 31, 2011. Any property left beyond March 31, 2011, will be impounded and returned to the Lessee only upon payment of reasonable impounding costs, fees, and storage. All rent is to be paid in advance as described below.

Section 2. Rental: The Lessee agrees to pay as rental for the right of such moorage space and the use of said portion of said dock, for the first year of the lease, the sum of Fifty-four Thousand Eight Hundred Two and 80/100 Dollars (\$54,802.80), based on a monthly rental of Eight Hundred Two and 80/100 Dollars (\$802.80) per month per bay and One Thousand One Hundred Fifty-six and 03/100 Dollars (\$1,156.03), the 2% Department of Lands fee as identified in Section 4, payable as follows: Thirty-four Thousand Three Hundred Ninety-one and 95/100 Dollars (\$34,391.95) payable on April 1, 2007, for the period of April 1, 2007, through October 31, 2007, this includes Six Hundred Seventy-Four and 35/100 Dollars (\$674.35), the 2% Department of Lands fee; and Twenty-four Thousand Five Hundred Sixty-five and 68/100 Dollars (\$24,565.68), payable on or before November 1, 2007, for the period of November 1, 2007, through March 31, 2008, this includes Four Hundred Eighty-one and 68/100 Dollars (\$481.68), the 2% Department of Lands fee. For the second year of the lease and each subsequent year thereafter until termination, the monthly rental amount shall be calculated by multiplying the annual regional consumer price index (so determined by the Federal Government) times the previous year's rental amount. However, the rent shall not deviate more than or less than 3% of the previous years rental amount. Payments for rental for each

subsequent year shall be made in advance of April 1, for the period of April 1 through October 31, and in advance of November 1, for the period of November 1 through March 31.

PROVIDED HOWEVER, the Lessee may at its option remove its property and vacate the leased space prior to November 1 of any year, in which event rental for the months during which such space is not used between November 1 and March 31 will not be charged if the Lessee has, prior to November 1, certified in writing to the City Clerk that the space has been so vacated. In such event, City will utilize the bay(s) as it deems in the City's best interest.

Section 3. Renegotiation: Lessee may request in writing a two (2) year extension of this agreement for the period from April 1, 2011, to March 31, 2013, by submitting to Lessor a written request for extension after April 1, 2009, and prior to November 1, 2009 Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as "extended agreement." If the extended agreement is approved, Lessee may, during the term of the extended agreement, request in writing an additional two (2) year extension of the extended agreement for the period from April 1, 2013, to March 31, 2015, by submitting to Lessor a written request for extension after April 1, 2011, and prior to November 1, 2011. Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as the "Seventh Extended Lease Agreement."

If the parties are unable to negotiate terms mutually agreeable to both parties within sixty (60) days of the date of receipt of the request from Lessee for an extension of the original agreement or extension of the extended agreement, then no extension shall occur and the lease shall expire according to previously agreed upon terms.

Section 4. Additional Rental: The State of Idaho Land Board has initiated a fee or other charge against the Lessor, during the term of this lease, for maintenance, operation, placement, and use of the City Dock, the Lessee shall pay to the Lessor its proportionate share of such rental or fee which for the first year of this lease is \$1,156.03 or 2% of the annual fee. This fee is included in Section 2. Should the State of Idaho charge any other or additional fee, Lessee shall be responsible for a proportionate share.

Section 5. Utilities: The Lessee agrees to pay all electrical services and other utility costs incurred at said dock and attributed to Lessee's operation pursuant to Section 11, entitled "Use of Leased Premises."

Section 6. Maintenance: The lessee is expected not to conduct any activity, or operate equipment in any manner not consistent with generally accepted marina boating practices that could cause damage to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs. To this end the Lessee agrees to promptly repair any damage done to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs, caused by the Lessee, Lessee's employees, agents, and/or customers, and caused by Lessee's boats and/or equipment. Lessee further agrees at its sole cost, to promptly repair any damage done to the City's Third Street Seawall and Third Street Seawall Docks, including but

not limited to decking, railings, pilings, walkways, and float logs, caused by the Lessee, Lessee's employees, agents, and customers, and/or caused by Lessee's boats and/or equipment and to promptly notify the City Parks Director of any such action whether to the City Dock, the Third Street Seawall or Third Street Seawall Docks. A drawing depicting the Third Street Seawall and Third Street Seawall Docks is attached hereto as Exhibit "B" is incorporated herein. In the event a City dock reconstruction or modification project would reasonably impair Lessee from proceeding promptly with repairs, Lessee shall undertake and complete repairs required by this Section within a reasonable time after the City dock reconstruction or modification project is complete.

Section 7. Improvements or Construction: The Lessee shall not construct anything on or about said dock without the written consent of the Parks Director. The Lessee agrees that City has the right to reconstruct and modify, including expansion of the dock, at any time during the term of the Lease. Lessor however, agrees to make reasonable efforts to not make such modification between May 1 and August 31. Lessee further agrees that it shall have no claim against Lessor for any inconvenience or lost income that may result from reconstruction, modification, or expansion of the dock.

Section 8. Adjustments: The parties agree the rental and utility payments required under Section 2 entitled "Rental" and Section 5 entitled "Utilities" shall be adjusted on a pro rated basis for each day a City's reconstruction or modification project makes the dock inaccessible to Lessee's patrons or invitees.

Section 9. Signs: Except as set forth in this section and in Section 11, entitled "Souvenir Sales," no signs for advertising purposes or otherwise shall be attached to the dock or affixed in the area adjacent to the dock, except a small sign designating the owner or the name of the boat and its location, which sign must be approved by the Parks Director and be in conformance with the Municipal Sign Code.

Section 10. Alcoholic Beverages: The Lessee shall make every reasonable effort to not permit any person to debark from the watercraft to the City Dock with any opened, sealed, or unsealed container of any alcoholic beverage.

Section 11. Souvenir Sales: The Lessee may sell from the dock non-food items directly related to its business, with the following conditions. The only items that may be sold are hats, t-shirts, sweatshirts, mugs, drinking cups, bumper stickers, and pennants provided such items either bear the Lessee vendor's logo or some other mark indicating a relation to the Lessee vendor's business. Provided, however, that sales and display of the items are to be confined to the interior of their respective booths, which booths and location must be approved in writing by the Parks Director prior to placement. Signs advertising the items for sale must be approved by the Parks Director and be in conformance with the Municipal Sign Code. The City reserves the right to direct Lessee to immediately cease the sale of souvenir items if in the City's sole discretion the continued sale of souvenir items creates an unsafe condition upon the City's dock. In such event, Lessee shall have no claim for damages against Lessor.

Section 12. Use of Leased Premises: It is understood and agreed that the Lessee will use the leased premises only for the moorage of The Mish-N-Nock, The Idaho, The Coeur d'Alene, the Kootenai, the Spirit of Coeur d'Alene, and the Fantasy for hire, and the loading and/or unloading of said craft along with limited souvenir sales permitted in Section 11, entitled "Souvenir Sales." The manner of moorage of the watercraft shall be approved by the Lessor's Parks Director. It is further understood and agreed that the general public shall at all times be invited to patronize the Lessee and shall have free access to and from the dock and the use thereof without charge by the Lessee.

Section 13. Liability: The Lessee covenants and agrees to indemnify, defend and hold the Lessor harmless from any and all demands, loss or liability for any injury or death occurring to any person or persons or for any damage to any property resulting from the business activities and operation of the Lessee in the use and possession of the leased premises pursuant to this Agreement.

The Lessee does further agree that it shall remedy any damage caused to the dock or docks which results from any acts of the Lessee, or the agents, employees, customers, patrons or passengers of the Lessee.

The Lessee shall not be liable for any loss, damage or injury which results from structural defects or failures of the dock or docks, if the structural defect or failure is not caused by the negligent acts of the Lessee, the agents, employees, customers, patrons or passengers of the Lessee.

The Lessee does agree that any structural defect that comes to the attention of the Lessee as relates to the leased property will be reported to the Lessor.

The Lessee does further agree that as relates to its use of the dock or docks for the purposes of loading or unloading passengers, it shall maintain reasonable inspection of the premises and shall take appropriate action to prevent their agents, employees, patrons or passengers from entering upon unsafe or defective conditions on the dock or docks of which it has notice, or from which a defective condition is readily apparent.

The Lessor shall have the right at all times during the Lease term to maintain inspection of the premises.

The Lessee and Lessor do acknowledge that the Lessee's rights to the use of the dock or docks is in common with other Lessees, including such other Lessees having passengers, patrons or guests on or about the leased premises. The Lessee shall have no liability for any injury to or death of any person or persons or from any damage to the premises which results from or is occasioned by other Lessees' operations and business activities.

Section 14. Insurance: The Lessee does agree that it shall procure, at its cost and expense and maintain in full force and effect, during the term of the Lease, a Policy of Liability Insurance insuring against loss for personal injury, death, or property damage with limits of not less than \$1,000,000.

The Lessor shall be endorsed on the Contract of Insurance as an Additional Named Insured. A Certificate of Endorsement of the Lessor as an Additional Named Insured under the insurance coverage to be procured by the Lessee shall be issued and shall be re-issued upon the annual renewal of the Insurance Policy and shall provide at least thirty (30) days written notice to Lessor prior to cancellation of the policy.

No coverage shall be afforded to the Lessor by the Lessee or its Insurance Company that goes beyond the obligation of the liability of the Lessee as are defined and outlined in Section 13 of this Lease Agreement.

The Lessee shall further make available to the Lessor those provisions of the Insurance Policy that would have bearing upon the terms, coverages, exclusions and conditions as relate to the rights of the Lessor as an Additional Named Insured. No entitlement shall exist in favor of the Lessor to obtain, by request or otherwise, any information from or about the Contract of Insurance that relates to other insured activities of the Lessee; other properties that are covered by such insurance; or any of the economics thereof; including premium payments, reports, reports on losses, or information relating to claims, excepting those claims arising pursuant to the activity of the Lessee under this Lease Agreement, for which the Lessor is to be protected as an Additional Named Insured. The Lessor shall be entitled to obtain a Declaration Sheet of coverage limits of the insurance to show compliance with the limits of insurance to be maintained by the Lessor.

Section 15. Assignability: Lessee shall not assign the lease or sublet the bay, or any part thereof, during the term hereof, without first having obtained the written consent of the Lessor to do so.

Section 16. Filing of Charges and Schedules: The Lessee shall at all times during the term hereof keep on file with the City Clerk of Coeur d'Alene a current schedule of its hours of operation and charges to the public.

Section 17. Interference With Use By Other Lessees: The Lessee shall not hamper or interfere with the use of the dock or other moorage spaces leased by the Lessor to other lessees.

Section 18. Parking: The parties recognize that the city is involved in a process of developing a downtown properties plan that may modify, move or eliminate some parking in the present downtown public parking lots. Lessee acknowledges and agrees that this may occur and may effect the parking areas presently used by Lessee's customers. In the event of said occurrence Lessee hereby releases, holds harmless Lessor and waives any claim whatsoever Lessee may have against the city its employees, agents, elected and appointed officials in the event parking is modified.

Section 19. Removal in Emergency: Should it appear to the Lessor that because of flooding or other danger, the property of the Lessor is endangered by the mooring of watercraft, the Lessee shall, immediately after receiving notice, remove the watercraft from the leased premises until the danger has ceased as determined by Lessor.

Section 20. Other Laws: Lessee agrees it shall comply with all local, state, and federal laws, statutes, rules and regulations, including agency rules and regulations, that may apply to Lessee's use of the leased premises.

Section 21. Default: In the event the Lessee fails, neglects, or refuses to perform any covenant or condition required of Lessee herein, that Lessor may terminate this lease and reenter and retake possession of the leased space, retaining any and all payments made by the Lessee as liquidated damages, or the Lessor may, at its option, enforce the specific performance of the terms hereof, or take such other recourse as may be open to it in law or in equity. In any of such events, the Lessee agrees to pay all expenses, including a reasonable attorney's fee, in any suit or action brought by the Lessor.

Lessee further agrees, in the event of default, that Lessor may impound property moored at or on the dock and store the same at Lessee's expense at a location chosen by Lessor.

Section 22. Notice: Provided, however, that before declaring such default, the Lessor shall notify the Lessee in writing of the particulars in which it deems the Lessee to be in default, and the Lessee shall have seven (7) days from the time such written notice has been placed in the United States Mail addressed to the Lessee at the last address the Lessee has left with the Lessor, with proper postage affixed, within which to remedy the default. Any notice required herein to be given to City shall be written and deemed received by City when personally delivered to the office of the City Clerk, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814. Any notice required herein to be given to Lessee shall be written and deemed received by Lessee when addressed to P.O. Box 7200, Coeur d'Alene, Idaho 83816-1941, and deposited in the United States mail with proper postage affixed thereto. In lieu of service by mail, a notice of default or of termination may be served in the manner provided for the service of process under the Idaho Rules of Civil Procedure, Rule 5(b).

Section 23. Lessor's Option to Terminate Lease: The Lessor may at any time after ten (10) day's written notice terminate this lease, retake possession of the leased space upon payment to the Lessee of the prorated, unearned portion of the lease payment. The notice of the exercise by the Lessor of its option to terminate the lease for no cause shall be given in the same manner as notice of termination in case of default.

Section 24. Time of the Essence: Time is of the essence of this agreement.

The terms and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, and assigns of the respective parties.

IN WITNESS WHEREOF, the Lessor has caused this lease to be executed by its Mayor and attested by its City Clerk, and the corporate seal hereunto affixed, and the Lessee has signed the same, the day and year first above written.

LESSOR:
CITY OF COEUR D'ALENE

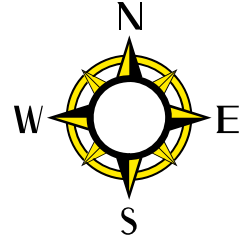
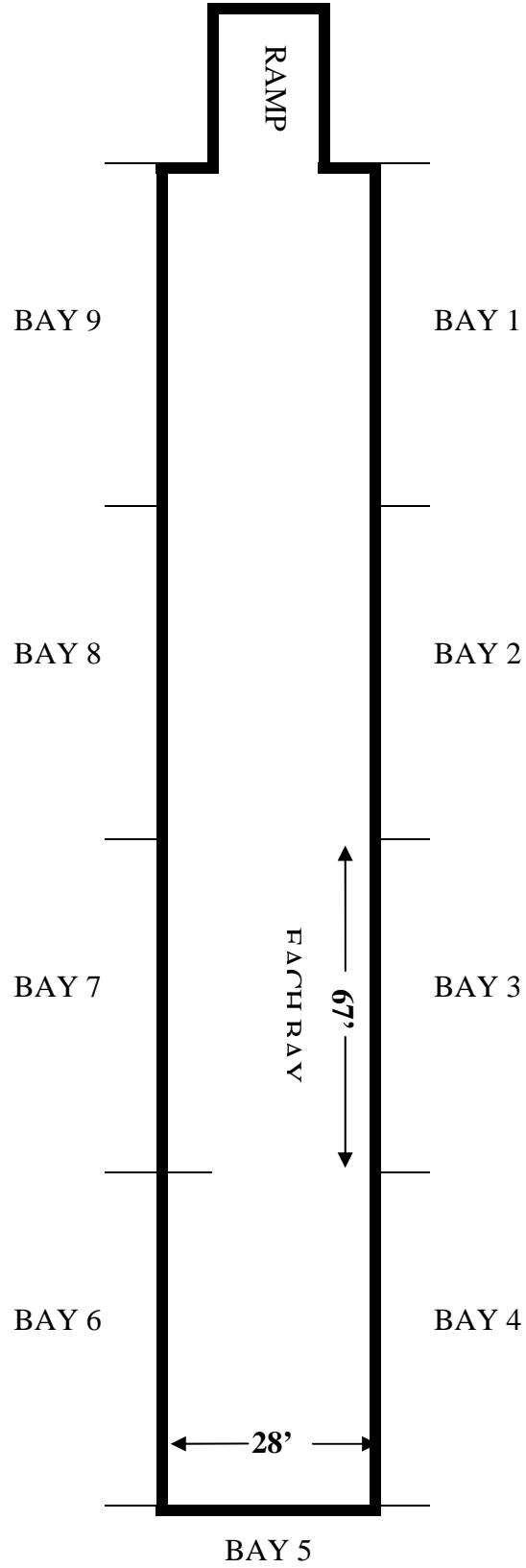
LESSEE:
LAKE COEUR D'ALENE CRUISES, INC.

By: _____
Sandi Bloem, Mayor

By: _____
Its: _____

By: _____
Susan K. Weathers, City Clerk

Exhibit "A"



Brooks Seaplane

SIXTH EXTENDED LEASE AGREEMENT

THIS LEASE, entered into this 4th day of September, 2007, by and between the **CITY OF COEUR D'ALENE**, a municipal corporation organized and existing under the laws of the state of Idaho, whose address is 710 E. Mullan Avenue, Coeur d'Alene, Idaho 83814, hereinafter referred to as the "Lessor," and **WILLIAM R. BROOKS d/b/a BROOKS SEAPLANE SERVICE, INC.**, with its principle place of business at PO Box 1028, Coeur d'Alene, Idaho 83816, hereinafter referred to as the "Lessee,"

W I T N E S S E T H:

That the Lessor, for and in consideration of the rents and covenants hereinafter mentioned to be paid and performed by the Lessee, does hereby lease and let unto the Lessee the following described moorage on the South side of the City Dock, to wit:

THAT SPACE DESCRIBED AS BAY 5 ON THE SOUTH SIDE
OF THE CITY DOCK.

Said bay is depicted on the attached drawings identified as Exhibit "A," and by this reference incorporated herein.

Section 1. Term: The term of this lease shall be four (4) years commencing April 1, 2007, and ending March 31, 2011. Any property left beyond March 31, 2011, will be impounded and returned to the Lessee only upon payment of reasonable impounding costs, fees, and storage. All rent is to be paid in advance as described below.

Section 2. Rental: The Lessee agrees to pay as rental for the right of such moorage space and the use of said portion of said dock for the first year of the lease, the sum of Three Thousand Eighty-nine and 95/100 Dollars (\$3,889.95) payable as follows: Two Thousand Eight Hundred Nine and 80/100 (\$2,809.80), based on a monthly rental of Four Hundred One and 40/100 Dollars (\$401.40), payable on April 1, 2007, for the period of April 1, 2007, through October 31, 2007, and Fifty-Six and 20/100 Dollars (\$56.20) which is the 2% fee assessed by the Department of Lands as identified in Section 4; and One Thousand Three and 05/100 Dollars (\$1,003.05) payable on or before November 1, 2007, for the period of November 1, 2007, through March 31, 2008, based on a monthly fee of Two Hundred and 70/100 Dollars (\$200.70), and Twenty and 05/100 Dollars (\$20.05) which is the 2% fee assessed by the Department of Lands as identified in Section 4. For the second year of the lease and each subsequent year thereafter until termination, the monthly rental amount shall be calculated by multiplying the annual regional consumer price index (so determined by the Federal Government) times the previous year's rental amount. However, except as set forth in Section 4 below entitled "Additional Rental," the rent shall not deviate more than or less than 3% of the previous year's rental amount. Payments for rental for each subsequent year shall be made in advance of April 1

for the period of April 1 through October 31, and in advance of November 1 for the period of November 1 through March 31.

Section 3. Renegotiation: Lessee may request in writing a two (2) year extension of this agreement for the period from April 1, 2011, to March 31, 2013, by submitting to Lessor a written request for extension after April 1, 2009, and prior to November 1, 2009. Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as "extended agreement." If the extended agreement is approved, Lessee may, during the term of the extended agreement, request in writing an additional two (2) year extension of the extended agreement for the period from April 1, 2013, to March 31, 2015, by submitting to Lessor a written request for extension after April 1, 2011, and prior to November 1, 2011. Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as the "Seventh Extended Lease Agreement."

If the parties are unable to negotiate terms mutually agreeable to both parties within sixty (60) days of the date of receipt of the request from Lessee for an extension of the original agreement or extension of the extended agreement, then no extension shall occur and the lease shall expire according to previously agreed upon terms.

Section 4. Additional Rental: The State of Idaho Land Board has initiated a fee or other charge against the Lessor, during the term of this lease, for maintenance, operation, placement, and use of the City Dock, the Lessee shall pay to the Lessor its proportionate share of such rental or fee which for the first year of this lease is \$76.25, or 2% of the annual fee. This fee is included in Section 2, should the State of Idaho charge any other or additional fee Lessee shall be responsible for a proportionate share.

Section 5. Utilities: The Lessee agrees to pay all electrical services and other utility costs incurred at said dock.

Section 6. Maintenance: The Lessee agrees at Lessee's sole cost within 5 five days to repair any damage done to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs, caused by the Lessee, Lessee's employees, agents, customers, or equipment and to promptly notify the City Parks Director of any such damages. Lessee is expected to not conduct any activity, or operate equipment in any manner that could potentially cause damage to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs.

Section 7. Improvements or Construction: The Lessee shall not construct anything on or about said dock without the written consent of the Director of Parks. The Lessee agrees that City has the right to reconstruct and modify, including expansion of the dock, at any time during the term of the Lease. Lessee further agrees that it shall have no claim against Lessor for

any inconvenience or lost income that may result from reconstruction, modification, or expansion of the dock.

Section 8. Signs: Except as set forth in this section and in Section 10, entitled "Souvenir Sales," no signs for advertising purposes or otherwise shall be attached to the dock or affixed in the area adjacent to the dock, except a small sign designating the owner or the name of the boat and its location, which sign must be approved by the Director of Parks and be in conformance with the Municipal Sign Code.

Section 9. Alcoholic Beverages: The Lessee shall not dispense by gift, sale or otherwise, or allow anyone else on the deck or watercraft for which the space is leased, to dispense by gift or sale, or otherwise, any alcoholic beverage, including but not limited to beer and wine, within the City limits of the City of Coeur d'Alene which extends 1,000 feet from the shoreline. The Lessee shall not permit any person to debark from the watercraft to the City dock with any opened, sealed or unsealed container of any alcoholic beverage.

Section 10. Souvenir Sales: The Lessee may sell from the dock non-food items directly related to its business, with the following conditions. The only items that may be sold are hats, t-shirts, sweatshirts, mugs, drinking cups, bumper stickers, and pennants provided such items either bear the Lessee vendor's logo or some other mark indicating a relation to the Lessee vendor's business. Provided, however, that sales and display of the items are to be confined to the interior of their respective booths, which booths and location must be approved in writing by the Parks Director prior to placement and must be removed from the premises at the close of each day. Signs advertising the items for sale must be approved by the Parks Director and be in conformance with the Municipal Sign Code. The City reserves the right to direct Lessee to immediately cease the sale of souvenir items if in the City's sole discretion the continued sale of souvenir items creates an unsafe condition upon the City's dock. In such event, Lessee shall have no claim for damages against Lessor.

Section 11. Use of Leased Premises: It is understood and agreed that the Lessee will use the leased premises and any dock extension owned by the Lessee only for the moorage of his seaplanes, to offer rides in seaplanes to the public, and to student fliers participating in his seaplane flying school, to sell gasoline to other seaplanes and, when necessary in emergencies caused by weather conditions or the condition of visiting seaplanes, to allow such seaplanes to be moored or stored on or at the part of the dock being leased by the Lessee. The Lessee shall make no sales from the dock of merchandise of any type including but not limited to watercraft, food, beverages, except the sale of gasoline to other seaplanes and souvenir sales as allowed by Section 10 entitled "Souvenir Sales." It is further understood and agreed that the general public shall at all times be invited to patronize the Lessee and shall have free access to and from the dock and the use thereof without charge by the Lessee. Lessor, or its Parks Director shall approve the manner of the moorage of the seaplanes or of the dock extension.

Section 12. Liability: The Lessee covenants to defend, indemnify, and hold the Lessor harmless from any and all demands, loss or liability resulting at any time or times from injury to or the death of any person or persons and/or from damage to any and all property occurring from the negligence or other fault or omission of the Lessee, Lessee's agents, employees and/or patrons in and about the leased premises, on or about or during cruises, flights, other activities associated with Lessee's use, or resulting from noncompliance with any law, ordinance, or regulation respecting the condition, use, occupation, sanitation or safety of the leased premises or any part thereof. The phrase in and about the leased premises shall mean the City Dock and all other areas owned, maintained, or regulated by Lessor upon which Lessee's customers and potential customers, invitee's, employees, and agents utilize in the course of his/her cruise, flights, other activities associated with Lessee's use, or inquiry about the same on Lessee's watercraft or in the course of access to or egress from Lessee's watercraft, including specifically, but not limited to, the waters surrounding the dock, the beach, sidewalks, ramp, parking areas, and other amenities and structures whether natural or manmade in the vicinity of the City Dock upon which or by which a customer, potential customer, invitee, employee, and agent of Lessee crosses until that person has left City property. To this end, the Lessee shall at its own expense obtain a policy or contract of insurance or comprehensive liability plan naming the Lessor as an additional insured, which policy, contract or plan shall insure against loss for personal injury or death or property damage in an amount of at least One Million Dollars (\$1,000,000). Insurance coverage shall include coverage for those claims which arise in and about the leased premises as defined above. A copy of such policy shall be filed in the office of the City Clerk together with a certificate of insurance showing such policy to be in effect at all times during the term of this lease. The certificate of insurance in a form acceptable to the City shall provide at least thirty (30) days written notice to the Lessor prior to cancellation of the policy. This policy must run for the entire period of this lease.

Section 13. Assignability: Lessee shall not assign the lease or sublet the bay, or any part thereof, during the term hereof, without first having obtained the written consent of the Lessor to do so.

Section 14. Filing of Charges and Schedules: The Lessee shall at all times during the term hereof keep on file with the City Clerk of Coeur d'Alene a current schedule of its hours of operation and charges to the public.

Section 15. Interference With Use By Other Lessees: The Lessee shall not hamper or interfere with the use of the dock or other moorage spaces leased by the Lessor to other lessees.

Section 16. Removal in Emergency: Should it appear to the Lessor that because of flooding or other danger, the property of the Lessor is endangered by the mooring of watercraft, the Lessee shall, immediately after receiving notice, remove the watercraft from the leased premises until the danger has ceased as determined by Lessor.

Section 17. Other Laws: Lessee agrees it shall comply with all local, state, and federal laws, statutes, rules and regulations, including agency rules and regulations, which may apply to Lessee's use of the leased premises.

Section 18. Default: In the event the Lessee fails, neglects, or refuses to perform any covenant or condition required of Lessee herein, that Lessor may terminate this lease and reenter and retake possession of the leased space, retaining any and all payments made by the Lessee as liquidated damages, or the Lessor may, at its option, enforce the specific performance of the terms hereof, or take such other recourse as may be open to it in law or in equity. In any of such events, the Lessee agrees to pay all expenses, including a reasonable attorney's fee, in any suit or action brought by the Lessor.

Lessee further agrees, in the event of default, that Lessor may impound property moored at or on the dock and store the same at Lessee's expense at a location chosen by Lessor.

Section 19. Notice: Provided, however, that before declaring such default, the Lessor shall notify the Lessee in writing of the particulars in which it deems the Lessee to be in default, and the Lessee shall have seven (7) days from the time such written notice has been placed in the United States Mail addressed to the Lessee at the last address the Lessee has left with the Lessor, with proper postage affixed, within which to remedy the default. Any notice required herein to be given to City shall be written and deemed received by City when personally delivered to the office of the City Clerk, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814. Any notice required herein to be given to Lessee shall be written and deemed received by Lessee when addressed to P.O. Box 1028, Coeur d'Alene, Idaho 83816 and deposited in the United States mail with proper postage affixed thereto. In lieu of service by mail, a notice of default or of termination may be served in the manner provided for the service of process under the Idaho Rules of Civil Procedure, Rule 5(b).

Section 20. Lessor's Option to Terminate Lease: The Lessor may at any time after ten (10) day's written notice terminate this lease, retake possession of the leased space upon payment to the Lessee of the prorated, unearned portion of the lease payment. The notice of the exercise by the Lessor of its option to terminate the lease for no cause shall be given in the same manner as notice of termination in case of default.

Section 21. Time of the Essence: Time is of the essence of this Lease.

Section 22. Parking: The parties recognize that the city is involved in a process of developing a downtown public properties plan that may modify, move or eliminate some parking in the present downtown public parking lots. Lessee acknowledges and agrees that this may occur and may effect the parking areas presently used by lessee's customers. In the event of said occurrence lessees hereby release, hold harmless and waive any claim whatsoever lessee may have against the Lessor its employees, agents, elected and appointed officials in the event parking is modified.

The terms and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, and assigns of the respective parties.

IN WITNESS WHEREOF, the Lessor has caused this lease to be executed by its Mayor and attested by its City Clerk, and the corporate seal hereunto affixed, and the Lessee has signed the same, the day and year first above written.

LESSOR:
CITY OF COEUR D'ALENE

LESSEE:
WILLIAM R. BROOKS d/b/a
BROOKS SEAPLANE SERVICE

By: _____
Sandi Bloem, Mayor

By: _____
William R. Brooks, President

By: _____
Susan K. Weathers, City Clerk

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 4th day of September, 2007, before me, a Notary Public, personally appeared **Sandi Bloem and Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission expires: _____

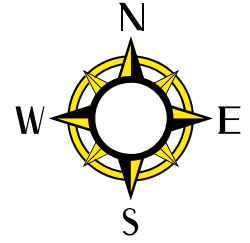
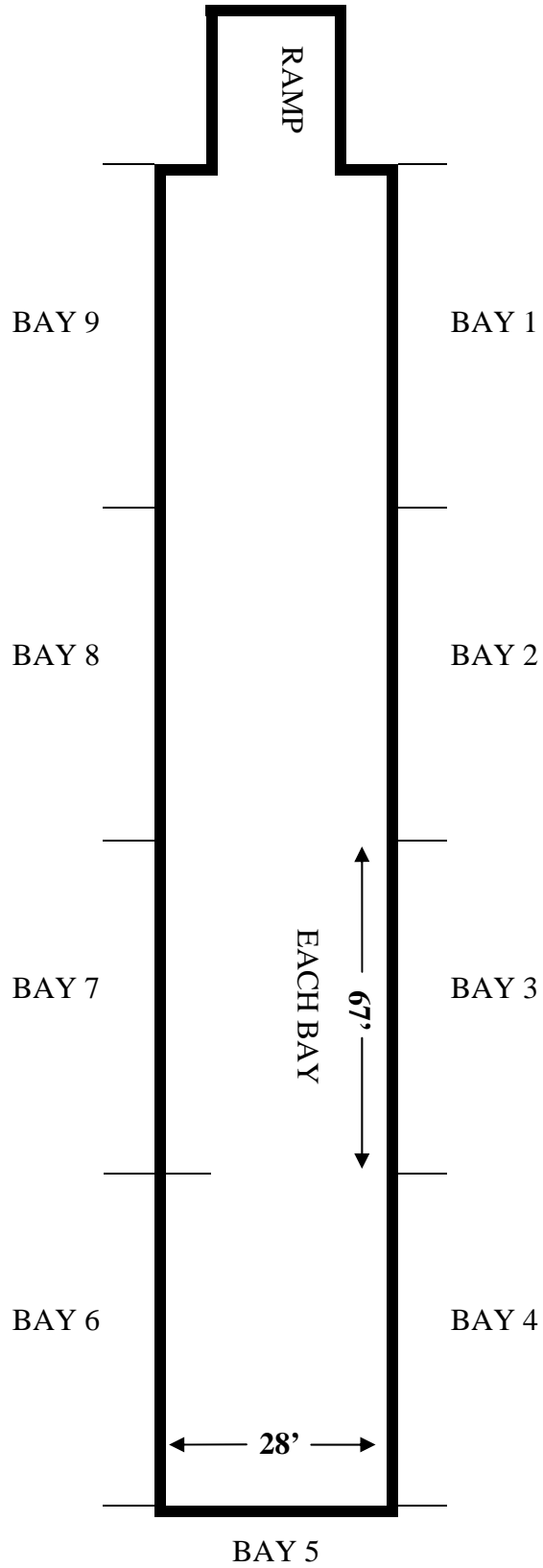
STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of _____, 2007, before me, a Notary Public, personally appeared **WILLIAM R. BROOKS**, known to me to be the President of **BROOKS SEAPLANE SERVICE**, and the person whose name is subscribed to the within instrument and acknowledged that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission expires: _____

Exhibit "A"



Brooks Seaplane

LEASE AGREEMENT

THIS LEASE, entered into this 4th day of September, 2007, by and between the **CITY OF COEUR D'ALENE**, a municipal corporation organized and existing under the laws of the state of Idaho, whose address is 710 E. Mullan Avenue, Coeur d'Alene Idaho 83814, hereinafter referred to as the "Lessor," and **BENJAMIN C. & RUTHIE RODRIGUEZ d/b/a COEUR D'ALENE PARASAIL & WATERSPORTS, INC.**, with its principle place of business at 7040 N Valley Street, Dalton Gardens, Idaho 83815, hereinafter referred to as the "Lessee,"

WITNESSETH:

That the Lessor, for and in consideration of the rents and covenants hereinafter mentioned to be paid and performed by the Lessee, does hereby lease and let unto the Lessee the following described moorage along the Westside of the City Dock:

BAY 4 ON THE EAST SIDE AND
BAY 9 ON THE WEST SIDE OF THE CITY DOCK.

Said bays are depicted on the attached drawing identified as Exhibit "A" and by this reference incorporated herein.

Section 1. Term: The term of this lease shall be four (4) years from the May 1st through September 30th each year, commencing May 1, 2007, and ending September 30, 2010. Any property left beyond September 30, 2010, will be impounded and returned to the Lessee only upon payment of reasonable impounding costs, fees, and storage. All rent is to be paid in advance as described below.

Section 2. Rental: The Lessee agrees to pay as rental for the right of such moorage space and the use of said portion of said dock in advance of May 1, 2007, for the first year of the lease, the sum of Eight Thousand Twenty-eight and no/100 Dollars (\$8,028.00), based on a monthly rental of Eight Hundred Two and 80/100 Dollars (\$802.80) per month per bay and One Hundred Sixty and 56/100 (160.56), the (2%) Department of Lands fee as identified in Section 4. For the second year of the lease and each subsequent year thereafter until termination, the monthly rental amount shall be paid in advance of May 1st of each year and shall be calculated by multiplying the annual regional consumer price index (so determined by the Federal Government) times the previous year's rental amount. However, except as set forth in Section 4 below entitled "Additional Rent," the rent shall not deviate more than or less than 3% of the previous year's rental amount.

Section 3. Renegotiation: Lessee may request in writing a two (2) year extension of this agreement for the period from May 1, 2011, to September 30, 2012, by submitting to Lessor a written request for extension after May 1, 2009, and prior to October 1, 2009. Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension

and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as "Fourth Extended Lease Agreement." If the extended agreement is approved, Lessee may, during the term of the extended agreement, request in writing an additional two (2) year extension of the extended agreement for the period from May 1, 2013 to September 30, 2014, by submitting to Lessor a written request for extension after May 1, 2011, and prior to October 1, 2011. Upon receipt of such request, the Lessor will consider whether it will grant an additional two (2) year extension and if so, the parties may mutually renegotiate terms applicable to said extension; hereafter referred to as the "Second Extended Lease Agreement."

If the parties are unable to negotiate terms mutually agreeable to both parties within sixty (60) days of the date of receipt of the request from Lessee for an extension of the original agreement or extension of the extended agreement, then no extension shall occur and the lease shall expire according to previously agreed upon terms.

Section 4. Additional Rent: The State of Idaho Land Board has initiated a fee or other charge against the Lessor, during the term of this lease, for maintenance, operation, placement, and use of the City Dock, the Lessee shall pay to the Lessor its proportionate share of such rental or fee which for the first year of this lease is \$160.56 or 2% of the annual fee. This fee is included in Section 2. Should the State of Idaho charge any other or additional fee, Lessee shall be responsible for a proportionate share.

Section 5. Utilities: The Lessee agrees to pay all electrical services and other utility costs incurred at said dock.

Section 6. Maintenance: The Lessee agrees at Lessee's sole cost within 5 five days, to repair any damage done to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs, caused by the Lessee, Lessee's employees, agents, customers, or equipment and to promptly notify the Parks Director of any such damages. Lessee is expected to not conduct any activity, or operate equipment in any manner that could potentially cause damage to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs.

Section 7. Improvements or Construction: The Lessee shall not construct anything on or about said dock without the written consent of the Parks Director. The Lessee agrees that City has the right to reconstruct and modify, including expansion of the dock, at any time during the term of the Lease. Lessee further agrees that it shall have no claim against Lessor for any inconvenience or lost income that may result from reconstruction, modification, or expansion of the dock.

Section 8. Signs: Except as set forth in this section and in Section 10, entitled “Souvenir Sales,” no signs for advertising purposes or otherwise shall be attached to the dock or affixed in the area adjacent to the dock, except a small sign designating the owner or the name of the boat and its location, which sign must be approved by the Parks Director and be in conformance with the Municipal Sign Code.

Section 9. Alcoholic Beverages: The Lessee shall not dispense by gift, sale or otherwise, or allow anyone else on the deck or watercraft for which the space is leased, to dispense by gift or sale, or otherwise, any alcoholic beverage, including but not limited to beer and wine, within the City limits of the City of Coeur d’Alene which extends 1,000 feet from the shoreline. The Lessee shall not permit any person to debark from the watercraft to the City dock with any opened, sealed or unsealed container of any alcoholic beverage.

Section 10. Souvenir Sales: The Lessee may sell from the dock non-food items directly related to its business, with the following conditions. The only items that may be sold are hats, t-shirts, sweatshirts, mugs, drinking cups, bumper stickers, and pennants provided such items either bear the Lessee vendor's logo or some other mark indicating a relation to the Lessee vendor's business. Provided, however, that sales and display of the items are to be confined to the interior of their respective booths, which booths and location must be approved in writing by the Parks Director prior to placement and must be removed from the premises at the close of each day. Signs advertising the items for sale must be approved by the Parks Director and be in conformance with the Municipal Sign Code. The City reserves the right to direct Lessee to immediately cease the sale of souvenir items if in the City's sole discretion the continued sale of souvenir items creates an unsafe condition upon the City's dock. In such event, Lessee shall have no claim for damages against Lessor.

Section 11. Use of Leased Premises: It is understood and agreed that the Lessee will use Bay 4 solely for the purpose of running a parasail operation and Bay 9 solely for the moorage of low tech watercraft for hire, and the loading and/or unloading of said craft. Low tech is described as aquatic equipment with zero (0) horsepower or that which is propelled by human power only. Except as set forth in Section 10 entitled “Souvenir Sales,” the Lessee shall make no sales from the dock of merchandise of any type including but not limited to watercraft, food, or beverages. It is further understood and agreed that the general public shall at all times be invited to patronize the Lessee and shall have free access to and from the dock and the use thereof without charge by the Lessee. The manner of moorage of the watercraft shall be approved by the Lessor or its Parks Director.

Section 12. Liability: The Lessee covenants to hold the Lessor harmless from any and all demands, loss or liability resulting at any time or times from injury to or the death of any person or persons and/or from damage to any and all property occurring from the negligence or other fault or omission of the Lessee, Lessee’s agents, employees and/or patrons in and about the leased premises, on or about or during activities associated with Lessee’s use, or resulting from noncompliance with any law, ordinance, or regulation respecting the condition, use, occupation,

sanitation or safety of the leased premises or any part thereof. The phrase “in and about the leased premises” shall mean the City Dock and all other areas owned, maintained, or regulated by Lessor upon which Lessee’s customers and potential customers, invitee’s, employees, and agents utilize in the course of his/her activity associated with Lessee’s use, or inquiry about the same on Lessee’s watercraft or in the course of access to or egress from Lessee’s watercraft, including specifically, but not limited to, the waters surrounding the dock, the beach, sidewalks, ramp, parking areas, and other amenities and structures whether natural or manmade in the vicinity of the City Dock upon which or by which a customer, potential customer, invitee, employee, and agent of Lessee crosses until that person has left City property. To this end, the Lessee shall at its own expense obtain a policy or contract of insurance or comprehensive liability plan naming the Lessor as an additional insured, which policy, contract or plan shall insure against loss for personal injury or death or property damage in an amount of at least One Million Dollars (\$1,000,000). Insurance coverage shall include coverage for those claims which arise in and about the leased premises as defined above. A copy of such policy shall be filed in the office of the City Clerk together with a certificate of insurance showing such policy to be in effect at all times during the term of this lease. The certificate of insurance in a form acceptable to the City shall provide at least thirty (30) days written notice to the Lessor prior to cancellation of the policy.

This policy must run for the entire period of this lease.

Section 13. Assignability: Lessee shall not assign the lease or sublet the bay, or any part thereof, during the term hereof, without first having obtained the written consent of the Lessor to do so.

Section 14. Filing of Charges and Schedules: The Lessee shall at all times during the term hereof keep on file with the City Clerk of Coeur d'Alene a current schedule of its hours of operation and charges to the public.

Section 15. Interference With Use By Other Lessees: The Lessee shall not hamper or interfere with the use of the dock or other moorage spaces leased by the Lessor to other lessees.

Section 16. Removal in Emergency: Should it appear to the Lessor that because of flooding or other danger, the property of the Lessor is endangered by the mooring of watercraft, the Lessee shall, immediately after receiving notice, remove the watercraft from the leased premises until the danger has ceased as determined by Lessor.

Section 17. Other Laws: Lessee agrees it shall comply with all local, state, and federal laws, statutes, rules and regulations, including agency rules and regulations, that may apply to Lessee's use of the leased premises.

Section 18. Parking: The parties recognize that the City is involved in a process of developing a downtown properties plan that may modify, move or eliminate some parking in the

present downtown public parking lots. Lessee acknowledges and agrees that this may occur and may effect the parking areas presently used by Lessee's customers. In the event of said occurrence Lessee hereby releases, holds harmless Lessor and waives any claim whatsoever Lessee may have against the City its employees, agents, elected and appointed officials in the event parking is modified.

Section 19. Default: In the event the Lessee fails, neglects, or refuses to perform any covenant or condition required of Lessee herein, that Lessor may terminate this lease and reenter and retake possession of the leased space, retaining any and all payments made by the Lessee as liquidated damages, or the Lessor may, at its option, enforce the specific performance of the terms hereof, or take such other recourse as may be open to it in law or in equity. In any of such events, the Lessee agrees to pay all expenses, including a reasonable attorney's fee, in any suit or action brought by the Lessor.

Lessee further agrees, in the event of default, that Lessor may impound property moored at or on the dock and store the same at Lessee's expense at a location chosen by Lessor.

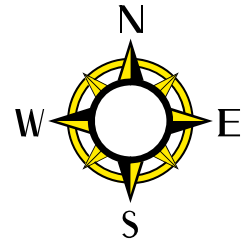
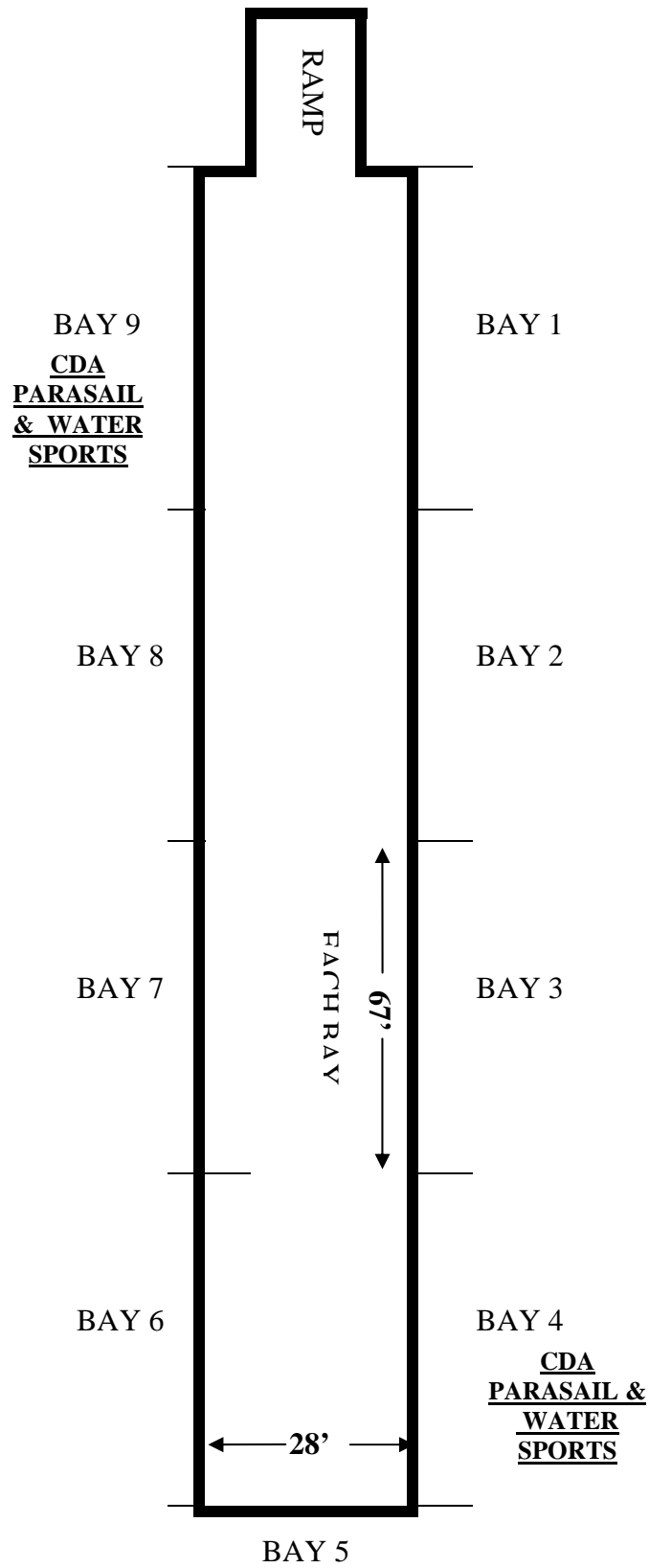
Section 20. Notice: Provided, however, that before declaring such default, the Lessor shall notify the Lessee in writing of the particulars in which it deems the Lessee to be in default, and the Lessee shall have seven (7) days from the time such written notice has been placed in the United States mail addressed to the Lessee at the last address the Lessee has left with the Lessor, with proper postage affixed, within which to remedy the default. Any notice required herein to be given to City shall be written and deemed received by City when personally delivered to the office of the City Clerk, 710 E. Mullan Avenue, Coeur d'Alene, Idaho 83814. Any notice required herein to be given to Lessee shall be written and deemed received by Lessee when addressed to 7040 N Valley Street, Dalton Gardens, Idaho 83815 and deposited in the United States mail with proper postage affixed thereto. In lieu of service by mail, a notice of default or of termination may be served in the manner provided for the service of process under the Idaho Rules of Civil Procedure, Rule 5(b).

Section 21. Lessor's Option to Terminate Lease: The Lessor may at any time after ten (10) day's written notice terminate this lease, retake possession of the leased space upon payment to the Lessee of the prorated, unearned portion of the lease payment. The notice of the exercise by the Lessor of its option to terminate the lease for no cause shall be given in the same manner as notice of termination in case of default.

Section 22. Time of the Essence: Time is of the essence of this agreement.

The terms and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, and assigns of the respective parties.

Exhibit "A"



PARKS AND RECREATION COMMISSION STAFF REPORT

Date: August 13, 2007
From: Doug Eastwood, Parks Director
SUBJECT: **FUNTASTIC FOODS CONCESSION LEASE RENEWAL** *(Council Action Required)*

DECISION POINT:

Renew lease agreement with Gordon and Dawna Andrea's Funtastic Foods concession at Independence Point for another three years to expire on September 30, 2010, with a cost increase each year based on the current Consumer Price Index (CPI) or a flat 3%.

HISTORY:

Gordon and Dawna Andrea have had their Funtastic Foods concession at this location since 1997. They have provided, during the last seven summer seasons, a valuable service in offering quality food items and directional information to both citizens and tourists.

FINANCIAL ANALYSIS:

The payment to the City for being at this site is a set amount. Consideration of an annual increase should be discussed, i.e., implement the CPI formula as we do for the commercial docks or a pre-established annual increase of say 3%.

PERFORMANCE ANALYSIS:

This concession has been a positive asset to our parks system. The owners not only provide quality products they assist their patrons by answering questions about the community and particularly information regarding City Park, Tubbs Hill and McEuen Field.

DECISION POINT / RECOMMENDATION:

Renew lease agreement with Gordon and Dawna Andrea's Funtastic Foods concession at Independence Point for another three years to expire on September 30, 2010, with a cost increase each year based on the current Consumer Price Index (CPI) or a flat 3%. Whatever decision you make on this agreement, the same should be implemented for Memorial Field Concession.

LEASE AGREEMENT EXTENSION

THIS CONTRACT, made and entered into this 4th day of September, 2007, between the **CITY OF COEUR D'ALENE**, Kootenai County, Idaho, a municipal corporation duly organized and existing under the laws of the State of Idaho, hereinafter called "City," and **GORDON and DAWNA ANDREA, d/b/a FUNTASTIC FOODS**, with its principal place of business at 726 W. Dakota Avenue, Hayden Lake, Idaho, 83835 hereinafter called "Andreas."

WITNESSETH:

THAT, WHEREAS, Andreas have been awarded the contract for a mobile food concession at a location generally described as: no more than a 10' x 8' (L x W) area on a concrete pad just south of sidewalk along the beach area between Independence Point and the Coeur d'Alene Resort, and immediately east of the sidewalk leading to the City's commercial dock, as shown as location "F" in Exhibit "A" which is attached hereto and hereby declared and incorporated herein by reference;

NOW, THEREFORE, IT IS AGREED, that for and in consideration of the covenants and agreements set forth herein that, Andreas shall operate and maintain a mobile food concession according to the terms set forth herein and under the penalties expressed herein.

Section 1. Definition: For purposes of this agreement the parties agree that the term "employee" shall include Gordon Andrea and Dawna Andrea.

Section 2. Community Relations: The Andreas agree they and their employees will be courteous and informed about the community and will assist with questions from tourists and other park users. Particularly, Andreas must become familiar with the immediate area including North Idaho College, Coeur d'Alene Resort, Tubbs Hill, McEuen Field, the Visitors Center, and the Chamber of Commerce.

Section 3. Appropriate Attire: Andreas agree they and their employees must be appropriately dressed in either an approved T-shirt or polo shirt with identifying logo, and approved shorts, if shorts are preferred instead of pants. Approval must be received from the Parks Director. It will not be permissible to operate the food concession without a shirt or in bikini type swimwear.

Section 4. Staffing: Andreas' food concession must be staffed by at least one employee at all times.

Section 5. Health Permit: Andreas agree to obtain a health permit as required by law for the said mobile food concession. The permit must be placed in a conspicuous place on the trailer. The permit number must correspond to the number on the trailer. The health permit is required to

be provided to the City Clerk by April 15, 2008. Failure to submit the required health permit within the above stated time can result in the City denying Andreas' permit or whatever actions the City deems necessary for the protection of the public.

Section 6. Food: Andreas may serve all foods within the scope of the health permit.

Section 7. Non-food Items: Sunscreen will be the only non-food item allowed for sale. Sale of any other items must have written approval from the Parks Director.

Section 8. Refuse: Andreas agree not to dispose of their refuse at a City maintained trash receptacle. Refuse must be removed from site and disposed of at Andreas' expense. Andreas' mobile food concession and immediately surrounding site must be kept clean at all times.

Section 9. Hold Harmless: Andreas shall hold the City harmless and shall give up all claims for any incidental or consequential damages or lost profits during the term of the agreement due to construction projects located in or using Memorial Field, Coeur d'Alene Museum, Independence Point parking lots, City parks or docks. Andreas further understand and agree that during the term of this agreement that the city or agents of the city may commence projects involving downtown public properties which may result in the city canceling this agreement pursuant to the notice provision in Section 24 below entitled "Lessor's Option to Terminate Lease." Furthermore, the parties recognize that the city is involved in a process of developing a downtown public properties plan that may modify, move or eliminate some parking in the present downtown public parking lots. Lessee acknowledges and agrees that this may occur and may affect the parking areas presently used by lessee's customers. In the event of said occurrence lessees hereby release, hold harmless and waive any claim whatsoever lessee may have against the Lessor its employees, agents, elected and appointed officials in the event parking is modified.

Section 10. Not Exclusive: Andreas understand and agree that the City from time to time during the term of this permit may allow other food and non-food concessions to operate in the City Park including, but not necessarily limited to, mobile food concessions permitted by bid award, food and non-food concessions permitted as a part of the Summer Concert in the Park Series, food and non-food concessions permitted as part of any special event in the City Park including, but again not limited to, A Taste of the Coeur d'Alenes, the Fourth of July, sports tournaments, or any event involving\or sponsored by the Human Rights Educational Institute.

Section 11. Waiver: Andreas understands that, during the term of this agreement, the City may be undertaking repairs to the City's commercial dock, which may interfere with Andreas' operation or affect persons in the park. Andreas specifically waives any claim as to lost profits or business while said repairs are undertaken.

Section 12. Worker's Compensation: Andreas agree to maintain worker's compensation coverage on all employees during the term of this contract as required by Idaho Code Sections

72-101 through 72-806. Should Andreas fail to maintain such insurance during the entire term hereof, Andreas shall indemnify the City against any loss resulting to the City from such failure, either by way of compensation or additional premium liability. Andreas shall furnish to the City, prior to the granting of a permit, such evidence as the City may require affirming worker's compensation coverage or in the alternative submit an affidavit stating that all employees have worker's compensation coverage as required by Idaho law.

Section 13. Negligent or Wrongful Act: Andreas agree to indemnify and hold harmless the City from any and all liability, loss or damage which the City may suffer arising out of, or in connection with the negligent or wrongful acts, errors and omissions of Andreas, their agents, or employees. Andreas further agree, at Andreas' cost, to defend the City against all claims arising out of this agreement, including any claims resulting from the operation of Andreas' concession or in connection with the negligent or wrongful acts, errors and omissions of Andreas, their agents or employees.

Section 14. Cart Specifications: Andreas agree to the following concession specifications, which will be adhered to by Andreas:

- A. Length: 8 ft. width: 8 ft. height: 8 ft. - Site "F"
- B. Canopies over concessions are acceptable but are not to exceed 96" in height.
- C. Heat source: propane. (Electricity is not available; generators are not permitted.)
- D. Cooling source: battery, ice, or propane.
- E. All concessions must be self-contained. Ice chests, canisters, etc. cannot be stored next to cart.
- F. The concessions must be kept clean throughout the season.

Section 15. Term: The City shall grant a mobile food concession permit to Andreas for the seasons of May 1, 2008, to September 30, 2008, May 1, 2009, to September 30, 2009, and May 1, 2010, to September 30, 2010, for the aforesated location "F."

Section 16. Consideration: Andreas shall in consideration for the permit to operate and maintain said mobile food concession as set forth in Section 15 at the said Location "F," shall pay the sum of Three Thousand Eight Hundred and No/100 Dollars (\$3,800.00) plus an additional amount based on the current annual regional consumer price index (so determined by the Federal Government) not to exceed 3% to be paid on or before April 15, 2008. For the second and third years the payment shall be increased by the current annual regional consumer price index (so determined by the Federal Government) not to exceed 3%. Payment for the

second year shall be paid on or before April 15, 2009, and payment for the third year shall be paid on or before April 15, 2010. Payment shall be made to the City Treasurer.

Section 17. Other Concessions: Andreas agree they may be awarded only one additional mobile food concession site in the City Park, should they submit a successful bid for a City Park mobile food concession. Andreas further agree they will not bring in promotional items without written permission from the Parks Director. The City may choose not to seek bids for other sites in the park and may award sites to vendors by any method the City chooses.

Section 18. No Alcohol: Andreas agree they shall not possess any alcohol or alcoholic beverages in the concession, City Park, or City parking lots.

Section 19. City Ordinances: Andreas shall abide by all City Ordinances and resolutions, included but not limited to Municipal Code Sections 5.18.015, 5.18.020, and 5.18.040.

Section 20. Glass Containers: Andreas agree not to dispense drinks in glass containers.

Section 21. Violation of Regulations: Andreas agree any violation of regulations, contract, ordinance, or any evidence of collusion may result in criminal prosecution and/or in the revocation of the permit, forfeitures of the full consideration, and Andreas may not be allowed to rebid or resubmit a proposal for a period of three (3) years.

Section 22. Non-transferable: Andreas also agree and understand concession sites cannot be transferred to another vendor without permission of the City.

Section 23. No Truck Parking: Except for parking in lawfully designated parking spaces neither Andreas nor their agent (s) shall park trucks or other vehicles adjacent to the concession site for longer than thirty (30) minutes. Failure to comply with this provision shall be considered a material breach of this agreement.

Section 24. Lessor's Option to Terminate Lease: The Lessor may at any time after ten (10) day's written notice terminate this lease, retake possession of the leased space upon payment to the Lessee of the prorated, unearned portion of the lease payment. The notice of the exercise by the Lessor of its option to terminate the lease for no cause shall be given in the same manner as notice of termination in case of default.

Section 25. Forfeiture of Permit: It is understood that time is of the essence and should Andreas fail to perform all of the covenants herein required of them, the City may declare the permit forfeited, Andreas shall cease operation of the concession at location "F," and any monies paid shall be pro rated as of the date of forfeiture. However, that before declaring such forfeiture, the City shall notify Andreas in writing of the particulars in which the City deems Andreas to be in default and Andreas will have three (3) days to remedy the default.

Residing at _____
My Commission expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of _____, 2007, before me, a Notary Public, personally appeared **GORDON ANDREA** whose name is subscribed to the within instrument and acknowledged that such individual executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of _____, 2007, before me, a Notary Public, personally appeared **DAWNA ANDREA** whose name is subscribed to the within instrument and acknowledged that such individual executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission expires: _____

Exhibit "A"



**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: August 13, 2007
From: Steve Anthony, Recreation Director
SUBJECT: RENEWAL OF USE AGREEMENT WITH COEUR D'ALENE SOCCER ASSOCIATION (*Council Action Required*)

DECISION POINT:

Renew use agreement with the Coeur d'Alene Soccer Association for use of Canfield Sports Complex and Coeur d'Alene Soccer Complex for one year to expire on September 1, 2008.

HISTORY:

The Coeur d'Alene Soccer Association has helped the city construct and improve soccer facilities. They provide a competitive soccer program for area youth.

FINANCIAL ANALYSIS:

As part of the initial agreement in 2001 the soccer Club made a donation of \$30,000.00 to help construct the Canfield Sports Complex. The Soccer club supplies the goals and nets at the Coeur d'Alene Soccer Complex and assists the city in marking the fields.

PERFORMANCE ANALYSIS:

The city has contracted with MIG consultants to prepare a comprehensive Parks and Recreation Master Plan. Part of that contract is to review all agreements with user groups and the School District. Staff is recommending that all new contracts be renewed for only one year in order to give MIG time to review these agreements and make recommendations. Currently we have one year agreements with Coeur d'Alene Jr. Tackle, Coeur d'Alene Heartbreakers/Wildfire Softball and North Idaho Rugby. These groups complete facility use forms each year.

RECOMMENDATION:

Staff recommends that city enter into a one year use agreement, from September 1, 2007, to September 1, 2008, with the Coeur d'Alene Soccer Association for use of the Canfield Sports Complex and the Coeur d'Alene Soccer Complex with the option to renew after the city reviews the recommendations in the new Parks and Recreation Master Plan.

AGREEMENT

THIS AGREEMENT, entered into the 21 of August, 2007 between the **City of Coeur d' Alene**, a municipal corporation organized pursuant to the laws of the state of Idaho, hereinafter referred to as "City," and the **Coeur d' Alene Soccer Club, Inc.**, a nonprofit corporation, organized pursuant to the laws of Idaho, hereinafter referred to as the "Club,"

WITNESSETH:

WHEREAS, City owns property abutting 15th Street and Canfield Avenue adjacent to Canfield Middle School, commonly referred to as the active Canfield Sports Complex (hereinafter called the "Canfield Sports Complex") and property in Coeur d' Alene Place, commonly referred to as the Coeur d' Alene Soccer Complex (hereinafter called the "Soccer Complex"); and

WHEREAS, the active Canfield Sports Complex, is completed, will and includes Soccer facilities which the Club desires to use; and

WHEREAS, the Coeur d' Alene Soccer Club, Inc., has committed money and in kind services to help develop the Canfield Park Sports Complex.

WHEREAS, the parties have reached an agreement as to certain matters regarding Canfield Sports Complex and Soccer Complex; NOW, THEREFORE,

IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

1. Term: The term of this agreement shall run from September 1, 2007, to September 1, 2008. After September 1, 2008, the Parks and Recreation Commission, in its sole discretion, may recommend to the City that a second five-year agreement with the Club be negotiated with the City.
2. Site: Canfield Sports Complex is more particularly described in Exhibit "A" and the Soccer Complex is more particularly described in Exhibit "B." Both Exhibits "A" and "B" are attached hereto and by this reference incorporated herein.
4. Admission Costs and Fees: That all events at Canfield Sports Complex and Soccer Complex will be open to the general public and no admission fee will be charged by the Club for admission to events at Canfield Sports Complex and Soccer Complex without permission from the Recreation Director, except as set forth in paragraph 12 below entitled "Set Aside of Park."
5. Goals and Nets: The Club will provide goals and nets and will re-condition the area at each goal.

6. Improvements: Any improvements set forth in Exhibit “A” to this Agreement, shall be paid solely by the Club, no additional improvements shall be installed without prior written approval from the City.
7. Priority Use of Fields: The parties agree that during the term of this Agreement that the Club will have priority use of the fields on Tuesdays, Thursdays, evenings, and Sundays. The City will have priority use on Monday and Wednesday.
8. Saturday Use: A representative from the Club and the City Recreation Director or his designee will meet prior to the start of each season to determine use on Saturdays. The parties further acknowledge there may be use of the fields by local high schools and that each party will cooperate to facilitate such use.
9. Proprietary Interest: The Club will have no proprietary interest in the improvements undertaken by the Club at Canfield Sports Complex and Soccer Complex.
10. Fencing: That no additional fencing will be installed other than portable fences for tournaments. Portable fences cannot be installed sooner than twenty-four (24) hours before a tournament and must be removed within twenty-four (24) hours after a tournament.
11. Portable Fencing: That the location, fence material, and method of installation of the portable fences must be approved by the Parks and Cemetery Director, and said installation shall be done by the Club at the Club’s sole expense, unless the City agrees to install the portable fencing for a fee.
12. Set Aside of Park: That Canfield Sports Complex and Soccer Complex may, at the City’s discretion, be set aside for the Club for tournament purposes for a fee of \$6.00 per hour of the tournament, which fee shall be used as set forth in Idaho code Section 50-1409.
13. Use of Park: That the Canfield Sports Complex and Soccer Complex shall not be exclusively used for soccer and the City may schedule other activities there including but not limited to children’s softball, soccer, and football. Permanent changes or permanent fixtures will not be made or added by the Club to the soccer field that would interfere with soccer play during the length of this agreement.
14. Hold Harmless: That the Club shall indemnify, defend, and hold the City harmless for any claim or cause of action that may arise as a result of the Club’s use, construction, and/or maintenance of the improvements by the Club. Additionally, the Club hereby agrees to hold the City, its elected and appointed officials, employees and agents, harmless from any and all claims that may arise in any manner whatsoever from the events surrounding and including use of the active Canfield Sports Complex and

Soccer Complex by the Soccer Club, its coaches, players, and fans. To this end, the Club shall provide liability insurance naming the City as an additional insured in the amount of Five Hundred Thousand Dollars (\$500,000) for property damage or bodily or personal injury, death or loss as a result of any one occurrence or accident regardless of the number of persons injured or the number of claimants. A certificate of insurance providing at least thirty (30) days written notice to the City prior to cancellation of the policy shall be filed with the office of the City Clerk prior on or before execution of this agreement which the certificate must be approved by the City Attorney.

15. Compliance with Law: That the parties will abide by all the laws, ordinances, regulations, and policies of the City, the state of Idaho, or the federal government that may apply in regard to the use, construction, and/or maintenance of the improvements and including but not limited to bidding and public works contracting laws.

16. Termination/Default: In the event the Club fails, neglects, or refuses to perform any covenant or condition required of the Club herein, City may terminate this agreement, retaining any and all payments made by the Club as liquidated damages, or the City may, at its option, enforce the specific performance of the terms hereof, or may take such recourse that is available in law or in equity.

17. Section Headings: The section headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the respective sections to which they appertain.

18. Attorney's fee: Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination, or forfeiture of this Agreement.

19. Choice of Law/Jurisdiction: The Agreement shall be governed and interpreted in accord with the laws of the state of Idaho. Jurisdiction for resolution of disputes arising from performance of this Agreement shall rest with the courts of the state of Idaho. Venue shall lie in Kootenai County.

20. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto, and may not be modified except by an instrument in writing signed by the parties hereto.

IN WITNESS WHEREOF, the Mayor and the City Clerk of the City of Coeur d' Alene have executed this contract on behalf of said City, and the Club has caused the same to be signed by its President, attested by its Secretary, the day and year first above written.

CITY OF COEUR D' ALENE
KOOTENAI COUNTY, IDAHO

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers,
City Clerk

COEUR D' ALENE SOCCER
CLUB, INC.

By: _____
President

ATTEST:

Secretary

STATE OF IDAHO)
) sis.
County of Kootenai)

On this ____ day of _____, 2007, before me, a Notary Public, personally appeared **Sandi Bloem and Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d' Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d' Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d' Alene
My commission expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of _____, 2007, before me, a Notary Public, personally appeared _____ and _____, known to me to be the President and Secretary, respectively, of the Coeur d' Alene Soccer Club, and the persons who executed the foregoing instrument on behalf of the Coeur d' Alene Soccer Club, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My commission expires: _____

Exhibit "A"
Canfield Sports Complex



**GENERAL SERVICES COMMITTEE
STAFF REPORT**

Date: August 22, 2007
From: Troy Tymesen, Finance Director
RE: Staff Report Appraisal Services Contract

Decision point:

To contract with American Appraisal for professional valuation consulting services. The purpose of their work would be to develop a comprehensive report covering the capital assets of the City of Coeur d' Alene to assist in meeting the reporting requirements of the Governmental Accounting Standards Board's (GASB) Statement No. 34 and for asset valuation for insurance purposes.

History:

GASB Statement No. 34 requires the City to report in its Annual Financial Statements for the year ending September 30, 2007 the City's infrastructure including streets, bridges, sidewalks, curbs, street lights, storm drain systems, etc. The City has not had a complete inventory of its buildings and building contents for insurance purposes since 1999.

Financial Analysis:

American Appraisal has proposed a price of \$24,000 to appraise the City's Buildings, Land Improvements, Moveable Equipment and Infrastructure. Fees include professional time for planning and executing the work through, and including, American Appraisal's final report. Expenses include those costs for such items as office and report processing, travel, living, computer charges, postage and copying, which are directly incurred by American Appraisal staff while executing the work. \$30,000 was budgeted the 2006-07 budget for professional services in the Finance department for this valuation.

Performance Analysis:

American Appraisal will develop a detailed capital asset record to assist the City's need to:

- 1) achieve property accountability and stewardship of assets
- 2) obtain a valuation of assets in compliance with the requirements of Generally Accepted Accounting Principles (GAAP), GASB 34, and Governmental Accounting, Auditing and Financial Reporting (GAAFR)
- 3) provide data to assist in monitoring assets
- 4) asset valuation for insurance purposes

Quality of Life Analysis:

GASB Statement No. 34 requires the City to report in its Annual Financial Statements for the year ending September 30, 2007 the City's infrastructure including streets, bridges, sidewalks, curbs, street lights, storm drain systems, etc. The City has not had a complete inventory of its buildings and building contents for insurance purposes since 1999.

Decision point/recommendation:

To contract with American Appraisal for professional valuation consulting services. The purpose of their work would be to develop a comprehensive report covering the capital assets of the City of Coeur d' Alene to assist in meeting the reporting requirements of the Governmental Accounting Standards Board's (GASB) Statement No. 34 and for asset valuation for insurance purposes.



**IMPLEMENTATION OF GASB 34 CAPITAL ASSET
AND INSURANCE PLACEMENT FOR:**



August 30, 2007
(REVISED)

Submitted by:

Paul Gruenwald
Vice President & Managing Director
American Appraisal Associates, Inc.
411 East Wisconsin Avenue, Suite 1900
Milwaukee, WI 53202
Phone: (414) 225-2007
Fax: (414) 225-1908

Email address: pgruenwald@american-appraisal.com



Established in 1896

August 30, 2007 (REVISED)

Mr. Troy Tymesen
Finance Director/Treasurer
City of Coeur d' Alene
City Hall
710 East Mullan Avenue
Coeur d'Alene, ID 83814

Re: Proposal for Implementing GASB 34 Capital Asset Reporting and Insurance Placement

Dear Mr. Tymesen:

Based on our August 9th meeting, American Appraisal Associates, Inc. ("American Appraisal") is pleased to provide this revised proposal for professional valuation consulting services. The purpose of our work will be to develop a comprehensive report covering the capital assets of the City of Coeur d'Alene (the "Client") to assist you in meeting the reporting requirements of the Governmental Accounting Standards Board's (GASB) Statement No. 34 and insurance placement. This proposal includes the same scope of services as identified in our August 7th proposal but provides a menu for selection of services (appraise contents only, appraise infrastructure only, appraise buildings and land improvements only, and appraise everything).

BACKGROUND AND PURPOSE

American Appraisal will develop a detailed capital asset record to assist Client's need to: (a) achieve property accountability and stewardship of assets, (b) obtain a valuation of assets in compliance with the requirements of GAAP, GASB 34, and GAAFR, (c) provide data to assist you in monitoring assets, and (d) insurance placement.

THE CITY'S RESPONSIBILITIES

1. Provide a list of all locations to be included in the assignment, along with physical location/street address, on-site property contact/department liaisons, and telephone numbers.
2. Identify a representative of the Client to serve as the primary on-site contact and liaison between the Client and American Appraisal.
3. Provide complete and open access to all designated areas including security escorts for security-sensitive areas.

AMERICAN APPRAISAL'S RESPONSIBILITIES

1. Develop a project work plan for approval by the Client and external auditors prior to commencement of our field investigations.
2. Conduct an inventory of the assets.



3. Prepare final reports.
4. Provide status reports as to our progress, or challenges, incurred throughout the study from start to delivery.

QUALIFICATIONS

American Appraisal, founded in 1896, is the world's leading valuation consulting firm with one of the largest dedicated full-time professional staff dedicated to serving the Public Services community within the valuation industry. Valuation consulting is our only business. Neither American Appraisal, nor any of its subsidiaries, perform accounting or bookkeeping related services. It is our commitment to maintain total independence and protect our clients from any concerns of a "conflict of interest" with their auditors.

Upon completion of the project you will be asked for your opinion on the services provided because quality service is, and will continue to be, the primary focus of American Appraisal Associates. We regard our clients as the best judges of quality service. During the last six years our Fixed Asset Management & Insurance Solutions group has continuously exceeded a 97% quality rating.

In support of our commitment to the public sector we have committed significant staff resources in-house to serve our clients, in the establishment of industry-wide standards, and in educational forums including presentations, publications, and continuing education seminars.

PROJECT TEAM

Professionals assigned to this project will involve several levels of management: executive review, project manager, contract manager, and the appraisal staff:

The project staff will include:

Executive Review:	David Peters, ASA Manager
Contract Manager:	Paul Gruenwald Vice President & Managing Director
Project Manager:	To be assigned

The above professional staff members will have overall responsibility and are key personnel to the successful completion of the assignment. Specific appraisal staff assignments may vary depending upon current availability at the time of the authorization to proceed with this project.

The Project Manager will serve as your day-to-day contact regarding the performance of the work and will be responsible for planning, directing, reviewing and evaluating the work and for communicating the results of the work to you. However, please do not hesitate to contact me at anytime that you believe it to be appropriate.



INCLUSIONS

The assets to be included will comprise certain buildings/structures and contents, as listed in the attached Schedule of Properties to Be Appraised, (Appendix A).

Based on a review and analysis of data provided, we have determined that there are approximately 112 buildings included in the scope of work.

TECHNICAL APPROACH

The capital assets to be included in this engagement are located in various Client-owned facility sites and structures, as reported by the Client (see Appendix A). The property includes 112 buildings. The facilities include Capital Assets, which comprise typical government occupancies.

General assets included in the development of the comprehensive fixed asset model include:

- Infrastructure
- Buildings
- Land Improvements
- Moveable Equipment

The following types of assets will be excluded from American Appraisal's physical inventory procedures but will be included in American Appraisal's appraisal report at no additional fee if the City provides us with data regarding their existence and historical cost prior to the completion of the field investigation:

- Licensed Vehicles, and
- Mobile Grounds Equipment

The following types of assets will be excluded from American Appraisal's scope of service:

- Infrastructure,
- Land (to be provided by District),
- Assets below the \$1,000 cut off with the exception of computers,
- Leased Equipment – Operating,
- Personal Property of Employees or Others,
- Supplies/Expendable Inventories, and
- Historical Treasures

When equipment is not easily accessible, we will consult with you to gather the information, or the assistance, needed to perform American Appraisal's inventory.

AAA will assign an estimated original cost estimate to Licensed Vehicles if the City provided data does not include historical purchase price.



ENGAGEMENT METHODOLOGY

Buildings

The appraisal will include an inspection of all Client owned buildings that are included on the supplied Schedule of Properties to be Appraised (Appendix A). The inspection will include a tour of the premises, the recognition and recording of various components of construction, measuring and photographing the buildings, preparing an inventory of the fixed equipment, and preparing a map of the site (plat plan). Existing site maps will be requested to assist the appraisal team in determining the identification and location of buildings.

The specific data elements to be documented for the development of the property record for buildings are summarized as follows:

- Site Designation (number/name)
- Street Address
- ISO Classification
- Story Height
- Wall Type
- Perimeter
- Heating
- Intrusion Alarm
- Cost of Reproduction New
- Historical/Estimated Cost
- Depreciated Reproduction Cost
- Building Designation (number/name)
- Year Built/Year Acquired
- Gross Square Footage
- Number of Floors
- Roof Pitch
- Roof Material
- Cooling
- Fire Alarm
- Life
- Accumulated Depreciation
- Elevators

Upon the completion of the building inspection, the buildings will be compared to your current property records to ensure the consistency in data elements such as date and cost of original construction, as well as any significant renovations and additions or improvements to the designated buildings. Individual buildings where this information is not provided will be estimated utilizing accepted appraisal procedures. This information pertains to accounting information only. All information required for insurance purposes, i.e. square footage, perimeter, ISO classification, etc. will be developed by the onsite appraiser and we will not use previous information to be sure all information is current and correct.

The methodologies to be utilized to assign a cost and depreciation for each building will be Direct and Normal Costing, as defined within the costing methodology section of this proposal.

Land Improvements

While inspecting site structures, we will also conduct an inventory of site / land improvements and miscellaneous structures with a unit or group cost greater than \$1,000. Pertinent data regarding assets in these categories, i.e. paving, lighting, fencing, park improvements, below grade data communication systems, etc. will be recorded to permit assignment of value.



Moveable Equipment

The engagement will include a complete physical inventory and bar code tagging of the Client's moveable equipment consistent with the Client's \$1,000 capitalization threshold and computers for financial reporting purposes.

When equipment is not easily accessible, we will consult with you to gather the information, or the assistance, needed to perform American Appraisal's inventory.

If desired, library books, radios, computer software, fine arts and historical treasures, and licensed vehicles ("Special Assets") can also be incorporated into the record, based on information supplied by the Client. This information must be provided to American Appraisal during the initial field inspection to be included in the reports. We will not inspect, tag or value any of the Special Assets identified by the Client.

American Appraisal will tag all assets with a replacement cost of \$1,000 and greater and computers. Our inventory team will follow consistent guidelines when affixing tags. The tags will be placed on assets so that they can be readily scanned with bar code scanners in the future. It is important that tags be placed uniformly so that during subsequent inventories your staff will know where to locate and place tags. When tagging specific types of assets, such as solid wood furniture, care will be taken so not to place the tag in a location that will deface the asset. Our Tag Order Form is included as Appendix B. The tags are polyester, self adhesive, Code 39 symbology, and we recommend the 1.5" x .75" size.

Infrastructure and Related Rights-of-Way

A detailed inventory of infrastructure assets will include a review of all infrastructure assets with a unit or group cost in excess of the \$5,000. American Appraisal will require access to certain information currently maintained by the City regarding infrastructure assets to be appraised. This information will include:

- Asset Classes (roads, bridges, lighting, etc.)
- Quantitative Data (lane miles, square feet, etc.)
- Description of the Asset
- Location Information
- Historical Cost (where available)
- Date of Acquisition (where available)
- Pavement Management System data

Our consultants will work with Department of Public Works personnel to gather the information necessary to complete the study. This includes requesting an export of the data contained in the Pavement Management System, a copy of the State Bridge Inspection Reports, and a list of the culvert inventory if available.

Every effort will be made to use actual cost and dates of acquisition of the infrastructure assets. We will use existing cost records when available and when they are not, we will use cost estimates determined through interviews with DPW staff to arrive at the current estimated replacement cost for the infrastructure assets. When dates of acquisition are not available, we will estimate the age of the infrastructure assets using a combination of the Pavement Management System and interviews with DPW staff. Using the replacement cost and age of the assets we will index the replacement cost



to the estimated year of construction through the use of “reverse” price-level indexes and/or the Composite Index from *Price Trends for Federal-Aid Highway Construction* developed by USDOT to arrive at estimated historical cost.

American Appraisal will exclude interest costs, cost overruns charged by contractors, and premiums paid for services performed, unless the City provides evidence of such historical cost.

American Appraisal will value the City’s infrastructure, as identified above. American Appraisal will require data from the City, which may include maps, CADs, and selective quantitative data from the Pavement Management System.

The following information will be reported for each infrastructure asset:

- Description
- Location
- Quantitative Data (i.e. Lane Miles, Square Feet, Quantity, etc.)
- Category
- Date of Construction/Acquisition
- Useful Life
- Original Cost (actual or estimate)
- Accumulated Depreciation
- Net Book Value
- Annual Depreciation

Roadways can have non-depreciable but capitalized costs. During the costing phase of the study we will work with your DPW engineers to determine the percentage of non-depreciable costs associated with the construction of roadways. These costs include such items as Cleaning and Grubbing, Earthwork and Soil Remediation, Tree Removal, Planting Landscaping, etc. and can account for 15% – 20% of the total cost of constructing a roadway. These costs will be reported separately as capitalized but non-depreciable asset entries. The overhead costs incurred by the City during construction will be determined and included as part of the cost of constructing a roadway. These costs include internal design, preliminary engineering, and inspection costs and can account for up to 20% -25% of the cost of the roadway.

Infrastructure will be reported and depreciated by subsystem, which is allowable by GASB 34. Reporting by subsystem allows easier perpetuation of the infrastructure assets. Typical subsystems are Roadways (including roadways, guard rails, curbs, gutters, etc), Traffic Signals, Signage, Street Lighting, Storm Drain Systems, etc.

The following categories of infrastructure will be included in our study:

- Alleys
- Bike / jogging paths or trails
- Boat Ramps
- Bridges
- Parking Lots (not adjacent to buildings)
- Reservoirs – not part of waste water fund



- Roadways
- Seawalls
- Sidewalks
- Signage
- Street Lighting **owned** by City
- Storm Drain Systems
- Traffic Lights

SPECIFIC DATA ELEMENTS/DEFINITIONS

In preparing the comprehensive fixed asset record of the Client's assets, we will provide the following items of data on each asset, as appropriate. The specific data elements to be captured are:

1. **Asset Location** - A system to identify the physical location of the appraised property (site, floor, room, etc.).
2. **Building Identification** - Where used, existing numerical identifications will remain; unidentified space will be numbered sequentially following the last assigned number.
3. **Department Number** - Existing numbers will be utilized. When not available, American Appraisal will identify those particular areas. Generally, only one unit number will be applied to a particular space. The largest department representation will be utilized.
4. **Asset Number** - A sequentially assigned asset number placed on controlled property by the Fixed Asset System. This can be a bar coded tag that is affixed to each controllable asset or a computer-generated number for group-controlled, or untaggable assets.
5. **Asset Account Code** - A major classification of property to identify major grouping of assets, i.e. buildings, land improvements, equipment, vehicles, etc.
6. **Asset Classification Code** - A subdivision of property to further identify assets, i.e. outdoor equipment, business machines, data processing equipment, furniture, audiovisual equipment, books, food service equipment, etc. This field may be used to include the Client's commodity code.
7. **Quantity** - Unit-controlled (tagged) property will be recorded as one.
8. **Asset Description** - Manufacturer's name, model, generic nomenclature, and serial number will be utilized for unit-controlled assets. For buildings, we will describe the type of structure, size, square footage, and building materials used as well as the fire, safety, and security apparatus/systems in place.



COSTING METHODOLOGY/DEFINITIONS

1. **Historical Cost** - The initial capitalized cost of an asset at the time it was first put into service. (As defined by the American Society of Appraisers.)
2. **Estimated Original Cost** - The initial capitalized cost of the asset in the hands of its present owner. (As defined by the American Society of Appraisers.)
3. **Direct Costing** - Additional research into the historical cost documented as provided by the Client in a readily available and useable format, in the Client's property records for the original construction, improvements and betterments.
4. **Normal Costing** - Estimated cost based on the cost of reproduction new indexed by a reciprocal factor of the price increase from the appraisal date to the actual or estimated acquisition date.
5. **Acquisition Date** - When readily available, we will use the actual acquisition date of the property. In the absence of readily available information, the acquisition date will be estimated based upon American Appraisal's knowledge of the property type and its condition.
6. **Estimated Life** - An estimate will be made of the useful life of each unit-controlled asset and each group-controlled asset. The matter of historical lifing practice versus estimated actual lives will be discussed during the planning meeting and an acceptable approach will be developed.
7. **Accumulated Depreciation** - Will be based on the asset's cost, acquisition date and the estimated useful life utilizing the straight-line basis of depreciation. Useful lives will be based on information provided by the Client or industry standards.
8. **Insurable Value** - Cost of reproduction new (replacement cost) as of the appraisal date will be used as a basis for insurable values for all controlled property.
9. **Cost of Reproduction New** - The amount required to reproduce a duplicate or a replica of the entire property at one time in like kind and materials in accordance with current market prices for materials, labor, and manufactured equipment, contractors' overhead and profit, and fees, but without provision for overtime, bonuses for labor, or premiums for material or equipment. In insurance industry terminology, cost of reproduction new, as defined above, is synonymous with the insurance industry phrase, "replacement cost."

DELIVERABLES

At the conclusion of the engagement, we will provide a Summary Appraisal Report, intended to comply with the reporting requirements set forth by the Uniform Standards of Professional Appraisal Practice ("USPAP") for a Summary Appraisal Report. As such, the report will present only summary



discussions of the data, reasoning, and analyses used in the appraisal process to develop American Appraisal's opinion of value. Supporting documentation concerning the data, reasoning, and analyses will be retained as a part of our work papers. The depth of discussion contained in the report will be specific to your needs as the client and for the intended use to assist property insurance placement and risk management. American Appraisal is not responsible for unauthorized use of its report.

In addition to the Summary Appraisal Report described above, we will also issue certain detailed appraisal reports that will contain supporting schedules and exhibits, including bridge/building construction details, photographs, and other appraisal data. These reports will include the following:

- A. **Report** - American Appraisal will provide the Client with a Summary Appraisal Report, in accordance with the reporting requirements set forth by the Uniform Standards of Professional Appraisal Practice ("USPAP"). The report will present only summary discussions of the data, reasoning, and analyses used in the appraisal process to develop American Appraisal's opinion of value. Supporting documentation concerning the data, reasoning, and analyses will be retained as a part of the work papers. American Appraisal is not responsible for unauthorized use of its report.
- B. **Fixed Asset Accounting Summary** - The standard Fixed Asset Accounting Summary Report displays description of fields being summarized, original cost, accumulated depreciation, net book value, annual depreciation, projected provision, by account.
- C. **Fixed Asset Accounting Ledger** - The Fixed Asset Accounting Ledger Report will include all capital assets with a unit cost in excess of the Client's capitalization threshold of \$1,000 and computers, and the related historical cost/estimated original cost, accumulated depreciation, and current depreciation data for financial reporting purposes. This information will be sorted and reported upon by account.
- D. **Summary of Insurable Values** - The standard Summary of Insurable Values Report displays description of fields being summarized, cost of reproduction new, and original cost values.
- E. **Detailed Listing of Insurable Values** - The standard Detailed Listing of Insurable Values Report displays asset tag number, class code, quantity, description, manufacturer's name, model number, serial number, and cost of reproduction new. This information will be sorted and reported by location and include all inventoried assets.
- F. A **Statement of Insurable Values** report by location listing each building appraised with the respective values to be reported.
- G. A Property Insurance – Inspection and Approval Report including the following data elements and a color digital photo of each building:
 - Site Designation
 - Building Designation
 - Address
 - Year Built
 - ISO Classification (Construction Type)



- Square Feet
- Average Story Height
- Number of Stories
- Basement
- Wall Type
- Roof Type
- Heating
- Cooling
- Entry Alarm
- Fire Alarm
- % Sprinkled
- Cost of Reproduction New
- Digital Photograph

H. Excel File

The Client will receive two hard copies and a .PDF file reflecting the results of American Appraisal's investigation to allow the Client to print additional copies of the report.

The City may disclose our report to its auditor, insurance broker, or other advisors who will assist it in the use of the report. American Appraisal is not responsible for unauthorized use of its report. The City hereby affirms that its stated purpose is to use the report created by American Appraisal for financial reporting and property control purposes and insurance placement.

TIMING

American Appraisal will begin the engagement within forty-five (45) days of authorization and deliver within sixty (60) days after completion of the fieldwork. This estimate is based upon American Appraisal's assumption that it will not experience any change in scope to this agreement, and that the Client will not cause American Appraisal to be delayed following the completion of fieldwork.

FEE TERMS AND CONDITIONS

- A. **Fee** – Based on the information provided to us and our experience in performing similar projects, our fee, including expenses, for this engagement will be:

Appraisal of Buildings, Land Improvements, Moveable Equipment and Infrastructure	\$24,000
Appraisal of Buildings and Land Improvements only	\$12,955
Appraisal of Moveable Equipment only	\$ 8,170
Appraisal of Infrastructure only	\$ 6,800

Fees include professional time for planning and executing the work through, and including, American Appraisal's final report. Expenses include those costs for such items as office and report processing, travel, living, computer charges, postage, and copying, which are directly incurred by American Appraisal staff while executing the work.



B. Change in Scope / Additional Square Footage and or Building Count - American Appraisal's fee is based upon the understanding that the Client's assets are located in the buildings set forth in Client's Schedule of Properties to be Appraised (Appendix A) incorporated by reference herein) consisting of 112 buildings/structures. American Appraisal has been provided with the number of structures from Client, which is the primary basis of estimate for project fees. If the actual building count varies from the Client-reported data, American Appraisal will notify the Client immediately upon discovery. Upon written authorization from the Client to continue its appraisal of the additional buildings, American Appraisal will continue with its appraisal at a rate agreed to by both parties in writing.

If you or your representatives or advisors request material assistance from us beyond that outlined herein and subsequent to the issuance of our final report, we will provide you with an estimate of the fees related to that assistance and secure your written authorization to proceed prior to initiating any services.

C. Statement of Independence - American Appraisal's fee is based upon its estimate of professional time to complete the work according to American Appraisal's understanding of Client's requirements and in no way is contingent upon the outcome of its conclusions of value.

D. Invoicing Schedule - American Appraisal will invoice you for professional services rendered including expenses. Invoices are payable by the Client upon receipt and will be issued as the engagement progresses as follows:

- 30% - Upon commencement of field investigation
- Balance - Progress billings as time is incurred

For your convenience, we are providing our remittance address and wire transfer instructions:

Remittance Address:

American Appraisal Associates, Inc.
BIN 88391
Milwaukee, WI 53288-0391

Wire Transfer Instructions

Bank Name/Address: M&I Bank
770 North Water Street
Milwaukee, WI 53202

Routing Number: 075000051

For the Credit to the Account of: American Appraisal Associates, Inc.
Account Number - 0024274888

E. Unpaid Invoices - We reserve the right to withhold delivery of preliminary conclusions or final report(s) if, when either of these are ready for delivery, any previously issued invoice remains unpaid. Further, we reserve the right to issue the final invoice if preliminary conclusions or a draft report have been outstanding for more than 30 days.



F. **Complete Agreement** - This Agreement, and any attachments or documents incorporated herein, constitute the complete and total agreement between the two parties, and shall supersede any preexisting or contemporaneously drafted agreements for services. In the event that you issue a purchase order to us covering this engagement it is agreed that such purchase order is issued for purposes of authorization and your internal use only, and none of its terms and conditions shall modify the terms and conditions of this letter and/or related documentation, or affect either party's responsibility to the other party as defined in this letter. Should American Appraisal incur additional costs as a result of the Client's failure to pay invoices in accordance with the terms stated herein, the Client will be responsible for all costs (including, but not limited to attorney's and collection agency's fees) associated with the collection of any and all unpaid amounts to which American Appraisal is legally entitled. Further, American Appraisal reserves the right to charge interest for the Client's failure to pay on a timely basis.

ENVIRONMENTAL POLICY

American Appraisal will make no investigation of, nor assume any responsibility for, the existence or impact of any hazardous substance, which may or may not be present on the property, in the development of American Appraisal's conclusion.

GENERAL SERVICE CONDITIONS

Agreement - The Contract governing this engagement including these General Service Conditions represents the entire agreement between American Appraisal and the Client. It supersedes any prior oral or written agreement and may not be altered except by the mutual written agreement of all parties thereto.

Assignment - Neither party may assign, transfer, or delegate any of the rights or obligations hereunder without the prior written consent of the other party; unless such assignment is based upon the lawful transfer to a successor in interest of all or substantially all of the party's assets or business interests.

Client of Record - Only the signed Client(s) of Record may rely on the results of American Appraisal's work. No third party shall have the reliance or contractual rights of American Appraisal's Client(s) of Record without American Appraisal's prior written consent. No party should rely on the results of American Appraisal's work as a substitute for its own due diligence.

Communication - With the exception of the signed acknowledgment of this Contract, electronic media including voice-mail, e-mail, and faxes are acceptable vehicles to communicate all materials unless such communication forms are expressly prohibited in the Contract. Client shall not assume or deem the Client Service Team assigned by American Appraisal to any work contemplated by the Contract to have knowledge of information provided to others not part of that team.

Contingent Fees - American Appraisal's compensation is not contingent in any way upon its opinions or conclusions or upon any subsequent event directly related to those opinions or conclusions. Client shall pay American Appraisal's invoices in accordance with their stated terms.



Confidentiality – American Appraisal will maintain the confidentiality of the Client's confidential information with the same degree of care that American Appraisal uses to keep its own materials confidential and shall not disclose it to anyone or use it for any purpose whatsoever other than Client's engagement, provided that in the event that American Appraisal is legally compelled to disclose such information, American Appraisal shall provide Client with prompt written notice so that Client may seek a protective remedy, if available. American Appraisal shall have the right to provide access to work files as required to comply with any quality or compliance audits administered by any necessary accreditation or standards organizations with which its employees are associated. Any such access shall continue to be subject to the same confidence by both American Appraisal and the applicable organization. Information shall not be treated as confidential if: (i) it is now or later available to the public, (ii) at the time of disclosure to American Appraisal, the information was already in its possession, or (iii) the information was obtained from a third party under no obligation of confidentiality to Client.

Unless mandated by applicable laws or governmental regulations, Client shall not disclose any part of American Appraisal's work product, its confidential materials, or its role in the engagement to anyone not stipulated in the Contract, without the prior written consent of American Appraisal. American Appraisal shall have the right to include Client's name in American Appraisal's client list.

Force Majeure – Neither the Client nor American Appraisal shall be liable for delays or for failures to perform according to the terms of the Contract due to circumstances that are beyond their individual control.

Governing Law, Jurisdiction and Venue – This contract shall be governed by the law of the State of Idaho within the jurisdiction of any state or federal court located in Kootenai County Idaho having subject matter jurisdiction.

Indemnification – American Appraisal shall indemnify and hold the City harmless from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses caused or incurred by American Appraisal, its servants, agents employees, guests, and business invitees, and not caused by or arising out of the negligent or tortious conduct of City or its employees.

In addition, American Appraisal, shall maintain, and specifically agrees that it will maintain, throughout the term of this Agreement, liability insurance, including professional liability insurance, in which the City shall be named an additional insured in the minimum amount as specified in the Idaho Tort Claims Act set forth in Title 6, Chapter 9 of the Idaho code. For any claim where indemnification is available hereunder, the limits of insurance shall not be deemed a limitation of the covenants to indemnify and save and hold harmless City; and if City becomes liable for an amount in excess of the insurance limits, herein provided, American Appraisal, covenants and agrees to indemnify and save and hold the City harmless from and for all such losses, claims, actions, or judgments for damages or liability to persons or property. American Appraisal shall provide City with a Certificate of Insurance. In the event the insurance minimums are changed, upon notice by the City, American Appraisal shall immediately submit proof of compliance with the changed limits.

Independent Contractor – American Appraisal and Client shall be independent contractors with respect to each other. American Appraisal reserves the right to use subcontractors in executing the engagement. American Appraisal is an equal opportunity employer.



American Appraisal will provide Worker's Compensation coverage for all of its employees and will ensure that any subcontractor's have Worker's Compensation coverage. American Appraisal will indemnify and hold the City harmless from any claims for injury to any of American Appraisal's employees or subcontractors.

Limits on the Use of the Work – American Appraisal's report may be used only for the specific use or uses stated in the Contract, and any other use is invalid.

Reliance on Information Provided by Client – American Appraisal is entitled to rely without independent verification on the accuracy and completeness of all of the information provided by Client or its advisors.

Retention – Unless stipulated to the contrary in the Contract or in a related written agreement, American Appraisal will retain as its property all files, documents, work papers, and other results, developed during the course of the engagement. Such materials will be retained for a period of at least five years. During this retention period, Client shall have access to these documents to assist it in completing the specific use or uses stated in the Contract, subject only to reasonable notification.

Scope of the Work – American Appraisal shall be obligated only for services specified in the Contract, and only for changes to the scope of those services that are set forth in any subsequent written agreement. As a result, the scope of the work does not include unrelated services or the responsibility to update any of the work after its completion. Further, American Appraisal reserves the right to decline to perform any additional services, if American Appraisal believes such services would create an actual or perceived conflict of interests, or would be illegal or in violation of applicable regulations or professional standards.

Standards of Performance – American Appraisal shall perform the engagement in accordance with applicable professional standards. However, professional services usually involve judgments made in an uncertain environment and based on an analysis of data that may be unverified or subject to change over time. Client and other parties to whom Client provides access to the results of American Appraisal's work shall evaluate the performance of American Appraisal based on the specifications of the Contract as well as on the applicable professional standards.

Testimony – American Appraisal's services do not include giving testimony or participating in or attending court or any other legal or regulatory hearing or inquiry unless provided for in the Contract or in a subsequent written agreement.



AUTHORIZATION OF SERVICES

If this engagement letter correctly reflects your understanding of our agreement, please confirm such by signing the authorization page and returning it to me. Please note, we will be unable to begin or deliver any conclusions, verbal or written, until we are in receipt of this acknowledgment. To avoid any delays, you may wish to either fax the signed acknowledgment page to (414) 225-1908 or email the authorization page to me at pgruenwald@american-appraisal.com. All fees are valid for a period of 60 days.

We look forward to the opportunity of serving the valuation needs of the City of Coeur d' Alene and assure you, if selected, that the work will receive our careful and continued attention.

Respectfully submitted,

Paul E. Gruenwald
Vice President & Managing Director

Client of Record: **CITY OF COEUR D'ALENE**

Signature: _____

Name (typed/printed) _____

Title: _____

Date: _____

E-Mail: _____

Phone _____

Please initial below to include the services accepted:

- _____ Appraisal of Buildings, Land Improvements, Moveable Equipment and Infrastructure
- _____ Appraisal of Buildings and Land Improvements only
- _____ Appraisal of Moveable Equipment only
- _____ Appraisal of Infrastructure only

c: Ms. Vonnie Jensen
Deputy Finance Director
City of Coeur d' Alene
710 East Mullan Avenue
Coeur d' Alene, ID 83814



APPENDIX A

CLIENT'S SCHEDULE OF PROPERTIES TO BE APPRAISED



Application:16462 Coeur d Alene, City of

<u>Item</u>	<u>Bldg Cov Type</u>	<u>Bldg Value</u>	<u>Pers Prop Value</u>	<u>Const</u>	<u>Year Built</u>	<u>PC</u>	<u>HG</u>
001. Lifeguard Stand	Blanket	\$2,891		Frame	2001	3	Medium
002. Ft Sherman Playground	Blanket	\$156,616		Frame	1998	3	Medium
003. Niche Wall 1	Blanket	\$109,270		NC/MNC	1998	3	Medium
004. Niche Wall 2	Blanket	\$86,861		NC/MNC	1998	3	Medium
005. Blackwell Booth #2	Blanket	\$664	\$1,264	NC/MNC	2000	3	Medium
006. Hanley Bypass	Blanket		\$50,600	NC/MNC	2000	3	Medium
007. Chem Sys Center	Blanket	\$19,517	\$18,066	NC/MNC	1994	3	Low
008. City Hall	Blanket	\$2,202,249	\$1,596,443	NC/MNC	1980	3	Low
009. City Hall Stor 1	Blanket	\$1,807	\$1,832	NC/MNC	1993	3	Low
010. City Hall Stor 2	Blanket	\$4,699	\$4,023	Frame	1995	3	Low
012. Lab Waste	Blanket	\$88,427	\$92,672	Frame	1992	3	Medium
013. Main/Harbor Center	Blanket	\$27,469	\$696	Frame	1994	3	Medium
014. Library	Blanket	\$1,655,301	\$2,332,638	NC/MNC	1975	3	Low
015. Library Storage	Blanket	\$7,590		Frame	1993	3	Low
016. Jewett Sr Center	Specific	\$583,090	\$21,320	Frame	1915	3	Medium
017. Jewett Garage	Specific	\$18,794	\$1,492	Frame	1915	3	Medium
018. Jewett Workshed	Specific	\$40,599	\$1,595	Frame	1915	3	Medium
019. NI Museum	Specific	\$397,562	\$167	JM	1966	3	Low
020. Fire Station #1	Blanket	\$868,250	\$345,971	JM	1975	3	Low
021. FD Stor #1	Blanket	\$33,131	\$49,122	Frame	1999	3	Low
022. FD #2	Blanket	\$264,439	\$33,074	JM	1994	3	Low
023. FD Stor #2	Blanket	\$5,663	\$14,522	Frame	1996	3	Low
024. Fire Station 3	Blanket	\$1,144,496	\$96,378	Frame	2001	3	Low
025. Police Station	Blanket	\$2,366,335	\$612,621	JM	1999	3	Low
026. Police Storage	Blanket	\$94,089		Frame	1999	3	Low
027. Water Shop	Blanket	\$1,055,465	\$297,455	JM	1991	3	High
028. Shop Pole Bldg	Blanket	\$100,113		Frame	1992	3	High
029. Storage Shed	Blanket	\$3,856		Frame	1986	3	High
030. 4th St Well	Blanket	\$48,551	\$59,526	Frame	1961	3	Low



031. Atlas Rd Well	Blanket	\$151,435	\$174,686	JM	1972	3	Low
032. Hanley Well	Blanket	\$90,957	\$107,462	JM	1991	3	Low
033. Honeysuckle Well	Blanket	\$87,945	\$58,122	JM	1997	3	Low
034. Linden Well	Blanket	\$56,742	\$70,477	Frame	1967	3	Low
035. Locust St Well	Blanket	\$76,500	\$78,308	JM	1991	3	Low
036. Prairie Well	Blanket	\$88,909	\$124,088	JM	2000	3	Low
037. Tubbs Screen Well	Blanket	\$35,419	\$36,142	Frame	1948	3	Low
038. Blackwell Booster	Blanket	\$31,443	\$12,649	NC/MNC	2000	3	Low
039. Blackwell Booster #2	Blanket	\$27,346	\$19,275	Frame	2000	3	Low
040. Elm St Booster	Blanket	\$84,332	\$30,119	JM	1970	3	Low
041. Best Hill Tank	Blanket	\$679,469		NC/MNC	1972	3	Low
042. Nettleton Tank	Blanket	\$18,433		NC/MNC	1972	3	Low
043. Stanley Hill Rervr	Blanket	\$399,730		NC/MNC	1975	3	Low
044. Tubbs Hill Tank #2	Blanket	\$496,108		NC/MNC	1948	3	Low
045. Prairie Standpipe	Blanket	\$1,164,012		Frame	1993	3	Low
046. 2M Gal. Water Reservoir	Blanket	\$2,100,000		JM		3	Low
048. Admin, Garage & Lab	Blanket	\$173,602	\$54,188	Frame	1987	3	Low
049. Tilt Up Building	Blanket	\$24,336	\$1,414	NC/MNC	1986	3	Low
050. Solids Handling	Blanket	\$4,338	\$4,159	NC/MNC	1986	3	Low
051. Secondary Control	Blanket	\$85,536	\$705,130	NC/MNC	1986	3	Low
052. Chlorine Dec	Blanket	\$6,145		NC/MNC	1986	3	Low
054. Chlorine Contact	Blanket	\$9,638	\$9,290	NC/MNC	1986	3	Low
055. Thickener Control	Blanket	\$8,433		NC/MNC	1991	3	Low
056. Chlorination Mixer	Blanket	\$4,578		NC/MNC	1986	3	Low
057. Lift Station #1	Blanket		\$123,125	NC/MNC	1982	3	Low
058. Lift Station #2	Blanket		\$44,806	NC/MNC	2000	3	Low
059. Lift Station #4	Blanket		\$56,742	NC/MNC	1993	3	Low
060. Lift Station #5	Blanket		\$46,744	NC/MNC	1993	3	Low
061. Compost Facility	Blanket	\$510,324	\$4,059	NC/MNC	1990	3	High
064. Compost Tool Shed	Blanket	\$6,145	\$2,162	Frame	1991	3	High
065. P/R Shed #1	Blanket	\$2,410	\$182	Frame	1976	3	Medium



066. Shed #2	Blanket	\$4,457		Frame	1997	3	Medium
067. Shed #3	Blanket	\$5,782		Frame	1998	3	Medium
068. Cemetery Shop	Blanket	\$117,461	\$36,398	JM	1973	3	High
069. Best Hills Gazebo	Blanket	\$13,012		Frame	1999	3	Medium
070. Bluegrass RR	Blanket	\$77,344	\$20,240	JM	1999	3	Medium
071. Bluegrass Gazebo	Blanket	\$37,588		Frame	1999	3	Medium
072. Bluegrass Park	Blanket	\$27,589		Frame	1999	3	Medium
073. Bryan Ballfield	Blanket	\$9,878		Frame	1991	3	Medium
074. City Park Bandshell	Blanket	\$495,626	\$6,036	Frame	1993	3	Medium
075. City Park RR	Blanket	\$182,035	\$3,132	JM	1973	3	Medium
076. City Park Storage	Specific	\$63,731	\$6,124	Frame	1948	3	Medium
077. City Park Gazebo	Specific	\$25,299		Frame	1970	3	Medium
078. City Park Small Gazebo	Specific	\$3,975		Frame	1961	3	Medium
079. City Park Pumphouse	Blanket	\$8,795	\$7,831	Frame	1976	3	Medium
080. Jenny Stokes RR	Blanket	\$66,140	\$723	Frame	1998	3	Medium
081. McEuen Field Structure	Blanket	\$57,105		Frame	1986	3	Medium
082. McEuen Field	Blanket	\$537,310		Frame	1986	3	Medium
083. McEuen Field GS	Blanket	\$24,939		Frame	1986	3	Medium
084. McEuen Field Ann. Stand	Blanket	\$10,963		Frame	1986	3	Medium
085. McEuen Field RR	Specific	\$46,262	\$1,203	JM	1961	3	Medium
086. McEuen Gazebo	Blanket	\$24,095		Frame	1992	3	Medium
087. Memorial Field	Blanket	\$95,655		Frame	1986	3	Medium
088. Mem Field Grandstand	Specific	\$250,946	\$3,896	Frame	1948	3	Medium
089. Northshire RR	Blanket	\$60,838		JM	1987	3	Medium
090. Persons Field	Blanket	\$19,998		Frame	1991	3	Medium
091. Persons RR	Specific	\$67,465		JM	1969	3	Medium
092. Rec Prop Room	Specific	\$132,521	\$4,113	JM	1949	3	Medium
093. Ramsey Fields	Blanket	\$175,048		Frame	1993	3	Medium
094. Ramsey Storage	Blanket	\$38,310	\$26,112	Frame	1986	3	Medium
095. Ramsey RR	Blanket	\$70,236	\$757	JM	1993	3	Medium
096. Ramsey Concession	Blanket	\$116,377	\$265	JM	1987	3	Medium



097. Ramsey Gazebo	Blanket	\$20,119		Frame	1993	3	Medium
098. Ramsey Storage	Blanket	\$5,782	\$6,167	Frame	1996	3	Medium
099. Ramsey Fields	Blanket	\$59,635		Frame	1993	3	Medium
100. Sunset Hts Field	Blanket	\$54,935		Frame	1990	3	Medium
101. Sunset Hts	Blanket	\$5,181		Frame	2000	3	Medium
102. Winton Field	Blanket	\$4,940		Frame	1985	3	Medium
103. Winton RR	Blanket	\$61,081		JM	1985	3	Medium
104. Winton Gazebo	Blanket	\$17,348		Frame	1985	3	Medium
105. 3rd St RR	Blanket	\$28,665		Frame	2004	3	Medium
106. Steel Water Standpipe	Blanket	\$1,754,464		NC/MNC	1985	3	Low
107. Seltice Trailhead RR/Shelter	Blanket	\$19,845		Frame	2004	3	Medium
108. Water Dept Office	Blanket	\$248,063		Frame	2004	3	Low
109. Fourplex	Specific	\$189,630		Frame	1930	3	High
110. Garage	Specific	\$18,522		Frame	1980	3	High
111. Landings Well	Blanket	\$750,000		Frame		3	Low
112. Industrial Standpipe	Blanket	\$1,100,000		NC/MNC		3	Low
113. Dwelling	Specific	\$100,000		Frame		3	High
114 City Hall Storage Shed	Specific	\$1,200		Frame		3	High
115. City Hall Carport	Specific	\$2,500		Frame		3	Medium
116. Truck Storage Bldg	Specific	\$35,000		NC/MNC		3	High
117. Administrative Offices	Blanket	\$200,000		Frame		3	Low
		\$25,355,749	\$7,517,803				
	Grand Total	\$32,873,552					



APPENDIX B
TAG ORDER FORM



ParCode
PAR CODE SYMBOLOGY INC

119 Harrison Avenue
Roseland, NJ 07068
Phone: (973) 618-0550, Fax (973) 618-9901
email: kryst@parcode.com

BAR CODE LABEL ORDER FORM

To place an order, email to Krystyna Olsiewicz at kryst@parcode.com or fax to (973)618-9901.

Date:	<input type="text"/>	Client PO #:	<input type="text"/>
Ordered by:	<input type="text"/>	American Appraisal Use	Dept #:
Phone:	<input type="text"/>		Contract #:
Client Name:	<input type="text"/>		

SPECIFICATIONS

Wording to appear on tag:

Line one:
Line two:

Number of Tags: Starting #:
Number of digits: (standard 5 or 6) Ending #:

Date Needed: Time Needed:

Item #: LTF2010SP004  1" x 2" laminated polyester labels

Qty	Price	Qty Ordered	=	Total
1,000 - 2,499	\$0.18 x	<input type="text"/>	=	<input type="text"/>
2,500 - 4,999	\$0.08 x	<input type="text"/>	=	<input type="text"/>
5,000 - 9,999	\$0.065 x	<input type="text"/>	=	<input type="text"/>
10,000 & up	\$0.06 x	<input type="text"/>	=	<input type="text"/>

If you have received a quote from Par Code on another Item # with different pricing, enter here:

Item #	Price	Qty	=	<input type="text"/>
	Freight Charges:		=	<input type="text"/>
	GRAND TOTAL:		=	<input type="text"/>

Ship to: American Appraisal Client

Attention _____
Company _____
Address _____
City _____ State _____ ZIP _____
Phone _____

Bill to: American Appraisal Client

Attention _____
Company _____
Address _____
City _____ State _____ ZIP _____
Phone _____

NOTES

Referral by: American Appraisal

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: August 27, 2007
FROM: David E. Shults, Capital Program Manager *DES*
SUBJECT: Change Order #10 to Agreement with Contractors Northwest for Polymer Equipment Installation

=====

DECISION POINT:

The City Council is requested to approve Change Order #10, for an increased cost of \$6,564 to the City's agreement with Contractors Northwest, Inc. for a total construction contract amount of \$11,799,369; of which \$67,260 is for installation of the City's prepurchased polymer equipment.

HISTORY:

The City previously approved Change Order #9 to allow the WWTP Phase 4B contractor, Contractors Northwest, to assist with the installation of the replacement polymer equipment purchased by the wastewater department after the Phase 4B work was done. Funding for the polymer equipment replacement costs is from the wastewater utility's equipment replacement reserve fund. The polymer equipment work is substantially complete. During the installation work, CNI and its subcontractors incurred unanticipated additional costs that are being requested in proposed Change Order #10. City staff and HDR Engineering have reviewed the contractor's request, and believe it is fair and reasonable.

FINANCIAL ANALYSIS:

Polymer Equipment Purchase	205,620
Deduct from purchase price for delivery problems	pending
HDR Engineering Design and Inspection	20,000
CNI Installation Change Order #9	60,696
CNI Installation Change Order #10	6,564
<u>Welding</u>	<u>2,000</u>
Total Polymer Equipment Replacement	294,880

Budget: 2005/2006 City Budget 60,000
(Started the project in 05/06, but carried over unexpectedly into current FY06/07.)

Funding: Sufficient cash reserves exist for this purpose in the Wastewater Fund

DISCUSSION:

Replacement of the polymer mixing, storage, and delivery system is necessary for reliable and efficient dewatering of the wastewater biosolids. The City accepted the low bid from Siemens for direct purchase of the equipment, and contracted with HDR Engineering for design of the interconnections of the equipment within the different rooms of the solids building and to the existing components of the dewatering facilities. The additional cost in proposed C.O. #10 reflects the additional time that was spent working through issues related to late and incomplete delivery of the city-purchased equipment from Siemens Water Technologies, related to rework of some of the equipment components, and for minor

addition of piping and electrical work that was necessary to complete the design. Siemens, CNI, HDR, and wastewater staff worked together to resolve the difficulties, and the system now functions as expected. Siemens plans to take responsibility for most of the additional costs by reducing the base cost of the equipment. Final project costs will be determined when the project is totally complete in the next few weeks.

DECISION POINT/RECOMMENDATION:

The City Council is requested to approve Change Order #10, for an increased cost of \$6,564 to the City's agreement with Contractors Northwest, Inc. for a total construction contract amount of \$11,799,369; of which \$67,260 is for installation of the City's prepurchased polymer equipment.

Attachment

des1212



08042 ..24390/5 2 10/C.O. #10

August 22, 2007

Mr. Dave Shults, Capital Program Manager
City of Coeur d'Alene Wastewater Division
710 E. Mullan Ave.
Coeur d'Alene, Idaho 83814

**RE: City of Coeur d'Alene Wastewater Treatment Plant
Phase 4B Upgrade and Expansion Project
Change Order No. 10**

Dear Dave:

Please find attached, for your review and approval, the recommended Change Order No. 10 for the above referenced project. This Change Order incorporates the addition of PCO #999 (last item to be added) involving the Polymer System Upgrade and provision of a time extension to the final completion date of the contract.

This Change Order No. 10 (PCO #999) was originated by Contractors Northwest, Inc. involving unexpected issues with the installation of the Owner-supplied dry polymer preparation and feed equipment. The majority of the issues surrounding the polymer equipment were a result of manufacturing and delivery problems created by Siemens Corporation, who was the equipment manufacturer/supplier. We recommend that the City recover the additional costs associated with this Change Order, as identified below, as a part of the City's equipment pre-purchase contract with Siemens Corporation. Please note that additional charges for electrical on-site engineering assistance from Trindera, Inc. may also need to be requested from Siemens Corporation.

The Change Order, at an added total cost of \$6,564 to the Phase 4B project, involves the following changes to the original scope of work for CNI:

- The original electrical quote for the equipment installation was identified to be high in several areas, and Electric One was asked to perform the work on a time and materials basis. The time and materials accounting for the electrical installation resulted in a credit of \$2,954 from the original Change Order No. 9 proposal for the equipment installation. This cost credit is not an amount the City should need to share with Siemens Corporation.

- The mixing tank arrived onsite with numerous deficiencies and defects. The sight glass was not provided and the hatch piano hinges required re-welding and rework. Where the control panel is shown on equipment drawings provided by Siemens, an air compressor was installed. The air compressor required re-location to the discharge side of the mixing tank to enable the control panel installation. Although this was completed by the City's welding subcontractor, it required additional coordination by CNI. It is recommended the City back-charge these added costs to Siemens Corporation.
- The factory drain piping that was delivered to the site was shorter than shown on the equipment drawings provided by Siemens Corporation. The piping required re-working by CNI and their sub-contractor Ramsey Plumbing. This change resulted in an additional cost of \$598.12 for Ramsey Plumbing, plus more coordination time by CNI. It is recommended the City back-charge these added costs to Siemens Corporation.
- The aging tank arrived onsite in two pieces, as originally specified and shown on the manufacturer's drawings. However, most of the appurtenances, float levels, sight glass, J-box were not provided as originally shown by Siemens Corporation. CNI was required to spend additional time to determine what needed to be provided by Siemens corporation, and to coordinate the delivery. It is recommended the City back-charge these added costs to Siemens Corporation.
- The polymer transfer (Vogelsang) pump arrived with the wrong assembly configuration and different than originally shown on the manufacturer's drawings. The corrections to the pump configuration needed to be coordinated by CNI. Although Siemens paid for their subcontractor to correct the problems, it is recommended the City back-charge the added coordination costs from CNI to Siemens Corporation.
- Air lines that were shown on the manufacturer's control drawings to be installed between the supply air compressor and control valves were not provided by Siemens Corporation. Also, as noted above, the air supply compressor needed to be changed. The change in the location of the air compressor by City's welding sub-contractor and the installation of air lines required coordination by CNI and additional plumbing costs by CNI's subcontractor Ramsey Plumbing. This resulted in an additional cost from Ramsey Plumbing at \$670.45, plus the added costs for CNI for coordination. It is recommended the City back-charge these added costs to Siemens Corporation.
- The polymer feed (Seepex) pumps arrived in a different installation configuration than as shown on the manufacturer's drawings. This

required a factory representative to re-configure the pump gear boxes. This work required additional coordination from CNI to complete. It is recommended the City back-charge these added costs to Siemens Corporation.

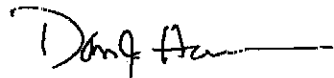
- Water flow meters (Rotameters) and associated piping required re-configuration to improve maintenance and operations access to the units. This involved re-location of the wall mounted units to the other side of the door in the polymer feed room. This required additional charges from CNI's subcontractors Ramsey Plumbing and Electric One to implement, and were not an additional cost associated with Siemens Corporation.
- The aging tank relief valve discharge piping was not shown on the original contract drawings. This piping was needed for the final installation. The installation of this additional piping was performed by CNI's subcontractor Ramsey Plumbing, at a cost of \$1,219. This additional cost was not associated with Siemens Corporation.
- The #2W water supply to the Dry Polymer Prep Unit was re-worked to provide for better operations accessibility. The additional costs associated with this change item were not associated with Siemens Corporation.

An additional 62 calendar days, to be amended to the project Final Completion date, is recommended as part of this Change Order. This Contract time modification results in a Final Project Completion date on or before August 31, 2007. We have discussed project completion with CNI, and have been assured that all remaining project items associated with their work will be addressed prior to this date.

I trust that the above description and attached support documentation provides sufficient summary of the changes associated with Change Order No. 10. Please contact me immediately if you require additional explanation or information.

Sincerely;

HDR ENGINEERING, INC.



Dan J. Harmon, P.E.
Project Engineer

c. Tom Hanou/Chris Kelly, HDR

CHANGE ORDER NO. 10

OWNER: City of Coeur d'Alene, ID

DATE: August 22, 2007

CONTRACTOR: Contractors Northwest, Inc.

HDR NO. 08042-038-103/ 24390

PROJECT: City of Coeur d'Alene Wastewater Treatment Plant
Phase 4B Upgrade and Expansion

CONTRACT DATE: May 19, 2005 NIP

It is agreed to modify the Contract referred to above as follows:
Provide all labor and materials necessary for installation of the work outlined in PCO #999. The cost summary of this Contract modification is as follows:

<u>CPR/PCO</u>	<u>Description</u>	<u>Cost</u>
999	Changes to CPR #65A Polymer System	<u>\$6,564</u>
	Change Order No. 10	Total Amount \$6,564

PART 1 - CHANGE ORDER SUMMARY

Original Contract Price:	\$10,949,000
Contract Price prior to this Change Order	\$11,792,805
Net Increase/Decrease of this Change Order	<u>\$ 6,564</u>

Revised Contract Price with All Approved Change Orders align="right">\$11,799,369

Contract Time:

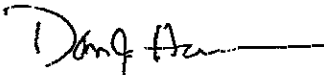
	Bid Item No. 2 Substantial Completion	All Other Work Substantial Completion	Final Completion of All Work
Contract Time Prior to this Change Order	347 Calendar Days	545 Calendar Days	790 Calendar Days
Net Increase of this Change Order	0 Calendar Days	0 Calendar Days	62 Calendar Days
Revised Contract Time With All Approved Change Orders	347 Calendar Days	545 Calendar Days	852 Calendar Days

Additional contract time has been included in this Change Order to address the time extension needed for completion of the polymer equipment installation and final project closeout on or before August 31, 2007.

PART 2 - CHANGE ORDER APPROVAL

This Change Order, when executed by the parties to the Contract, amends the Contract and, as so amended, all terms and conditions of the Contract remain unchanged and in full force and effect. Payment and any time extension provided in this Change Order are full and complete compensation to the Contractor for the change(s) to the work, deleted work, modified work, direct or indirect impact on the Contractor's schedule, and for any equitable adjustment or time extension existing at the time of the execution of this Change Order to which the Contractor may be entitled, pursuant to the Contract between the Owner and Contractor or any other basis whatsoever. The changes included in this Change Order are to be accomplished in accordance with the terms, stipulations and conditions of the original contract as though included therein

Accepted for Contractor By: _____ Date: _____, 2007

Approved for HDR Engineering By:  _____ Date: **August 22, 2007**

Approved for Owner By: _____ Date: _____, 2007

Distribution: Owner, Contractor, Office

Contractor: **CONTRACTORS NORTHWEST, INC.**

Project: **CDA WWTP Phase 4B Upgrade and Expansion**

PCO 999 - Changes to CPR 65A Polymer System

Scope of change:

During the installation of the polymer system, there were a multitude of issues that came up that required additional work to enable the polymer system installation to be completed.

The items included a great deal of additional coordination of the polymer system, drain piping modifications, rotometer relocations, air compressor and air line installation, pipe relief valve discharge changes, 2W water line re-routing, and solenoid valve relocation.

In addition, electrical and controls modifications were necessary which included running new conduit for dilution solenoids.

Contract time extension will be required with this change to reflect the delays of completion due to the all of the problems that occurred with this work.

RECAP OF CHANGE ORDER PRICING DETAIL

Total Charges for Labor and Labor Burden - from page two (2)	\$4,710.00
Total Charges for Material - from page two (2)	\$216.66
Total Charges for Equipment - from page two (2)	\$0.00
Total Allowable Charges for Subcontractors - from page two (2)	\$1,475.65
Total Allowable Charges for time impacts - from page two (2)	\$0.00
Subtotal	\$6,402.31
Bond - rate of 1.13 %	\$72.35
Liability Insurance - rate of .75%	\$48.02
All Risk Insurance - rate of .65%	\$41.62
TOTAL CHARGES FOR CHANGE ORDER PER CONTRACT	\$6,564

Contract Pricing Certification:

We hereby certify that the pricing in this change order proposal is current, accurate, and in accordance with the contract agreement.

CNI Submitted by: *Russ Twardowski* Date Submitted: August 15, 2007
Russ Twardowski, Project Manager

HDR Recommended for Payment by: *[Signature]* Date Approved: *8/21/2007*

Owner Approved by: _____ Date Approved: _____

LABOR			
Detailed Labor Take-off			4710.00
Labor Burden			39.00%
			Included
Labor Markup			Percentage 20.00%
			Included
TOTAL LABOR CHARGES FOR CHANGE ORDER PER CONTRACT			4710.00
MATERIAL			
Material from detailed material Take-off sheets			0.00
Other direct material not Specifically included in detailed take-off - Consumables, etc.			0.00
Freight from vendor to job sit if not already included in above material costs.			0.00
Applicable Sales Tax on Material Costs			5.00%
			0.00
Small Tools Cost (based on raw labor cost)			4.00%
			188.40
Materials Markup			Percentage 15.00%
			28.26
TOTAL MATERIAL CHARGES FOR CHANGE ORDER PER CONTRACT			216.66
EQUIPMENT			
Equipment from detailed materials take off sheets			0.00
Equipment Description		Est Usage	Rate
			0.00
Equipment Description		Est Usage	Rate
			0.00
Applicable Sales Tax on Equipment			5.50%
			Included
Equipment Markup			Percentage 15.00%
			Included
TOTAL EQUIPMENT CHARGES FOR CHANGE ORDER PER CONTRACT			0.00
SUBS			
Subs from detailed material Take-off sheets			\$1,405.38
Subcontractor Name:		Proposal Date:	
Subcontractor Name:		Proposal Date:	
Subcontractor Name:		Proposal Date:	
Subcontractor Markup			Percentage 5.00%
			\$70.27
TOTAL CHARGES FOR SUBCONTRACTOR WORK PER CONTRACT			\$1,475.65
EXTENDED TIME IMPACTS			
Time Impact caused by this change 0 days. Costs are \$2,240.00 per cal. day.			
TOTAL CHARGES FOR EXTENDED TIME IMPACTS PER CONTRACT			\$0.00

FINAL

CONTRACTORS NORTHWEST INC.
 ITEM: PCO 999 - Polymer System Changes
 PROJECT: WWTP UPGRADE PROJECT PHASE 4B

ITEM NO.	DESCRIPTION	QUAN.	UNIT	LABOR U.P.	LABOR	MAT U.P.	TAXABLE MATERIAL	NON TAX U.P. or SUB	NON TAX MAT / SUB
	THIS CHANGE ADDS								
	CALENDAR DAYS TO THE SCHEDULE								
	Project Superintendent - Issue monitoring and resolution	17	HR	70.00	\$1,190	N/A	N/A	N/A	N/A
	Project Manager - Jeff Koons - solve issues that would have stopped the project	34	HR	80.00	\$2,720	N/A	N/A	N/A	N/A
	Project Manager - Russ Twardowski - Subcontractor Coordination	6	HR	80.00	\$480	N/A	N/A	N/A	N/A
	Project Manager - Change Order Compilation / Reconciliation	4	HR	80.00	\$320	N/A	N/A	N/A	N/A
	Electric 1 - Cost of work for original scope of Polymer System on T&M basis	1	LS	N/A	N/A	N/A	N/A	18,443.00	\$18,443
	Deduct original contract value for Electric 1 Quote on CFR 65A	1	LS	N/A	N/A	N/A	N/A	(21,397.00)	(\$21,397)
	Electric 1 - Cost of work for original scope of Polymer System on T&M basis	1	LS	N/A	N/A	N/A	N/A	167.09	\$167
	Ramsey Plumbing CP-001 - Change Factory Drain Piping at Mixing Tank - Item A	1	LS	N/A	N/A	N/A	N/A	598.12	\$598
	Ramsey Plumbing CP-001 - Relocate Rotometers - Item B	1	LS	N/A	N/A	N/A	N/A	1,022.38	\$1,022
	Ramsey Plumbing CP-001 - Install Air Compressor and air line - Item C	1	LS	N/A	N/A	N/A	N/A	670.45	\$670
	Ramsey Plumbing CP-001 - Pipe Relief Pipe Discharge - Item D	1	LS	N/A	N/A	N/A	N/A	1,219.17	\$1,219
	Ramsey Plumbing CP-001 - Reroute 2w water piping at Pre-Mix Tank - Item E	1	LS	N/A	N/A	N/A	N/A	441.56	\$442
	Ramsey Plumbing CP-002 - Relocate Solenoid Valves	1	LS	N/A	N/A	N/A	N/A	240.61	\$241
	Subtotal Labor, Materials, and Subcontractors				\$4,710		\$0		\$1,405
									\$0
									\$0
									\$0
	Subtotal Equipment Items				\$0		\$0		\$0
	TOTAL				\$4,710		\$0		\$1,405

CNI Job Cost Transactions
 Current through Date and Time of Report

CONTRACTORS NORTHWEST INC
 Design: c:\TIMBERLINE\REPORT\JCCSTRAN.rpt

Cat	Acctg Date	Description	Description	Invoice	Units
		00617 CDA WWP PHASE 4B 70.00389 POLYMER SYSTEM			
1	06-03-07	MCCORMICK; TIMOTHY L			32.00
1	06-10-07	MCCORMICK; TIMOTHY L			16.00
1	06-17-07	MCCORMICK; TIMOTHY L			4.00
1	06-24-07	MCCORMICK; TIMOTHY L			3.00
1	07-01-07	MCCORMICK; TIMOTHY L			21.00

TOTAL 76 HRS

ORIGINALLY ESTIMATED 42 HRS

TOTAL Additional Hours = 76-42 = 34 HRS

SINCE PART OF THE TIME WAS DEVOTED TO ACTUAL INSTALLATION OF THE EQUIPMENT THE ADDITIONAL SUPERINTENDANT PORTION WILL BE FIGURED AT 1/2 OF THE ADDITIONAL TIME OR 17 HRS

CMI Job Cost Transactions
 Current through Data and Time of Report

CONTRACTORS NORTHWEST INC
 Design: t:\TIMBERLINE\REPORT\JCCSIRAN.rpt

Cat	Acctg Date	Description	Description	Invoice	Units
		00617 CDA WWP PHASE 4B			
		70.00389 POLYMER SYSTEM			
1	06-03-07	KOONS; JEFFREY LEE			13.00
1	06-10-07	KOONS; JEFFREY LEE			13.00
1	06-17-07	KOONS; JEFFREY LEE			7.00
1	06-24-07	KOONS; JEFFREY LEE			6.00
1	07-01-07	KOONS; JEFFREY LEE			3.00
1	07-08-07	KOONS; JEFFREY LEE			1.00
1	07-22-07	KOONS; JEFFREY LEE			2.00
1	07-29-07	KOONS; JEFFREY LEE			2.00

TOTAL 47 HRS

ORIGINAL Estimate included 13 HRS

47-13 = 34 Hours Additional

Project Management
 to solve all of
 the issues



P. O. BOX 2408
HAYDEN, ID 83835

Invoice

Date	Invoice #
8/14/2007	2159

Bill To
CONTRACTORS NORTHWEST, INC. 3731 N. RAMSEY ROAD COEUR D' ALENE, ID83816-1938, IDAHO 83816

Ship To
CDA WWTP POLYMER SYSTEM

P.O. No.	Terms	Due Date	Project
RUSS	Due on receipt	8/14/2007	0721 Polymer System

Item	Description	Est Amt	Prior A...	Prior %	Qty	Total %	Prev. I...	Prior Qty	Curr %	Amount
	LOT PRICE PER CONTRACT	13200 00			264	100.00%		0	100.00%	13200 00
Industri...	LABOR	875 00			1	100.00%		0	100.00%	875 00
Materials	CORE DRILL	313 99			1	100.00%		0	100.00%	313 99
Materials	TAGS	1,095.24			1	100.00%		0	100.00%	1,095 24
Materials	CONDUIT	670.54			1	100.00%		0	100.00%	670 54
Materials	WIRE	244 53			1	100.00%		0	100.00%	244 53
Materials	STP WIRE	374 84			1	100.00%		0	100.00%	374 84
Materials	MISC. MATERIALS	1,668 91			1	100.00%		0	100.00%	1,668 91
LABOR	10% O&P									

Thank you for your business.

Total	\$18,443.05
Payments/Credits	\$0.00
Balance Due	\$18,443.05

Phone #	Fax #	E-mail
208-772-5433	208-762-3321	electric@electric-1cda.com



ELECTRIC 1 LLC
 P. O. BOX 2408
 HAYDEN, ID 83835

Invoice

Date	Invoice #
8/9/2007	2148

Bill To
CONTRACTORS NORTHWEST, INC. 3731 N. RAMSEY ROAD COEUR D' ALENE, ID83816-1938, IDAHO 83816

Ship To
EXTRA

P.O. No.	Terms	Due Date	PROJECT
RUSS	Due on receipt	8/9/2007	0721 Extras

QTY	ITEM	DESCRIPTION	PRICE	Amount
2.5	02 Labor	LABOR-RUN NEW CONDUIT FOR 2 WATER DILUTION SOLENOIDS	50.00	125.00
1	Materials	MATERIALS-1/2 X CLOSE NIPPLES, 1/2 LBS, COVERS, GASKETS, AND 1/2 CONNECTORS	27.61	27.61
1	Materials	MATERIALS-1/2 SEAL TIGHT, #16 TFFN	9.48	9.48
1	Materials	MISC. MATERIALS	5.00	5.00

Thank you for your business We now accept Visa and Mastercard Please call to pay by credit card.

Total	\$167.09
Balance Due	\$167.09

Phone #	Fax #	E-mail	Web Site
208-772-5433	208-762-3321	electric@electric-1cda.com	www.electric-1cda.com



CONTRACT CHANGE PROPOSAL CP-001

July 26, 2007

Contractors Northwest, Inc.
 Attn: Jeff Koons
 PO Box 6300
 Coeur d'Alene, ID 83816

RE: CDA WWTP- Polymer Extras

Proposal: We have additional costs related to the installation of piping for the polymer equipment. Attached is a breakdown of labor and material per item. This work was completed on July 18, 2007

A) Change Factory Drain Piping at Mixing Tank

MATERIAL

1 3" Sch 80 PVC Coupling	10.99
1 3" Sch 80 PVC Ball Valve	149.54
1 3" Sch 80 PVC Tee	15.12
2' 3" Sch 80 PVC Pipe	4.55

LABOR

3 Hrs Foreman	209.22
2 Hrs Plumber	130.68
	520.10
15% O/P	78.02

SUM OF ITEM A **\$598.12**

B) Relocate Rotometers

MATERIAL

10' 1" Sch 80 PVC Pipe	10.14
20' 2" Sch 8 PVC Pipe	22.36
3 1" Sch 80 PVC Adpts	1.11
2 1" Milwaukee BA-100 Ball Valves	41.68
2' 1 1/2" Galv Unistrut	3.90
3 1" Strut Clamps	2.49
2 3/8" x 2 1/2" Stud Anchors	.91
2 1" Sch 80 PVC Tees	5.28
1 1" Sch 80 PVC 90°	1.47
4 2" Galv Loop Hangers	1.84

LABOR

8 Hrs Foreman	557.92
4 Hrs Plumber	261.36
	889.02
15% O/P	133.36

SUM OF ITEM B **\$1,022.38**

Page 1 of 2
 4023 E. Central Avenue
 Spokane, WA 99217
 (509) 482-2775 FAX: (509) 482-2765
 E-mail: ramsey@ramseyph.com
 WBE# W2F2004874

Breakdown of labor and material continued 7-150 CP-001

C) Install Air Compressor and Pipe Air Lines

<u>MATERIAL</u>		
130' 3/8" OD Air Hose		89.48
100 3/16" x 7" Zip Ties		12.78
1 1/4" MIP 3/8" Tube 90°		1.36
<u>LABOR</u>		
5 Hrs Foreman		348.70
2 Hrs Plumber		130.68
		583.00
	15% O/P	87.45
	SUM OF ITEM C	<u>\$670.45</u>

D) Pipe Relief Valve Discharge


<u>MATERIAL</u>		
10' 2" Sch 80 PVC Adpt		70.70
5 2" Sch 80 PVC Unions		57.85
8 2" Sch 80 PVC 90°		20.38
2 2" Sch 80 PVC 45°		14.77
2 3" Sch 80 PVC Tee		30.16
2 3" x 2" Sch 80 PVC Bushings		24.54
1 4" Sch 80 PVC Tee		17.52
1 4" x 2" Sch 80 PVC Bushings		13.86
10 2" Sch 80 PVC Pipe		1.12
1 Pt PVC Primer		7.11
1 Qt PVC Blue Fast Set Glue		13.32
<u>LABOR</u>		
8.5 Hrs Foreman		592.79
3 Hrs Plumber		196.02
		1,060.14
	15% O/P	159.03
	SUM OF ITEM D	<u>\$1,219.17</u>

E) Re-route 2w Water Piping at Pre-Mix Tank

<u>MATERIAL</u>		
1 1 1/2" Sch 80 PVC Union		8.53
3 1 1/2" Sch 80 PVC 90°		6.32
1 1 1/2" Sch 80 PVC Coupling		1.24
10' 1 1/2" Sch 80 PVC Pipe		8.06
1 1 1/2" Strut Clamp		1.16
18" 1 5/8" S/S 316 Unistrut		17.25
2 3/8" x 2 3/4" S/S 316 Stud Anchors		1.51
<u>LABOR</u>		
3 Hrs Foreman		209.22
2 Hrs Plumber		130.68
		383.97
	15% O/P	57.60
	SUM OF ITEM E	<u>\$441.56</u>

GRAND TOTAL FOR CHANGE PROPOSAL CP-001 ITEMS A, B, C, D & E **\$3,951.68**

Pricing is firm for 30 days If you have questions regarding this proposal, please contact me.


 Mike Jackson, Project Coordinator



CONTRACT CHANGE PROPOSAL CP-002

August 1, 2007


Contractors Northwest, Inc
Attn: Jeff Koons
PO Box 6300
Coeur d'Alene, ID 83816

RE: CDA WWTP - Polymer Extra -- Relocate Solenoid Valves

Proposal: We have additional cost related to relocating the solenoids adjacent to the rotometers. This work was completed on July 27, 2007.

<u>LABOR</u>	
3 Hrs Foreman	209.22
15% O/P	<u>31.39</u>
ALL FOR THE SUM OF	<u>\$240.61</u>

Pricing is firm for 30 days. If you have questions regarding this proposal, please contact me.


Mike Jackson, Project Coordinator
M.J/sv
07-150

Page 1 of 1
4023 E. Central Avenue
Spokane, WA 99217
(509) 482-2775 FAX: (509) 482-2765
E-mail: ramsey@ramseyph.com
WBE# W2F2004874

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: August 22, 2007
FROM: Mike Gridley – City Attorney
SUBJECT: Public crossing agreement with BNSF for Atlas Mill site

DECISION POINT:

Should the city enter into a public crossing agreement with Burlington Northern Santa Fe Railroad to allow construction of a public crossing in the Atlas Mill site when the property is annexed into the city?

HISTORY:

BNSF, Stimson Lumber and Black Rock have asked the city to enter into a public crossing agreement so that a public crossing can be built when the property at the old Atlas Mill site is annexed into the city. Black Rock and Stimson cannot close on the sale of the property until there is an agreement in place that will allow construction of a permanent public crossing.

FINANCIAL ANALYSIS:

There should be no financial impact on the city. The developer/seller has agreed to pay any fees required by the agreement. Developer will indemnify city for any ongoing liability. The reality is that it is unlikely that the crossing will ever be required to be built.

PERFORMANCE ANALYSIS:

The crossing agreement is required to allow a public crossing across the BNSF tracks. However the agreement is structured so that the public crossing will not be constructed until after the railroad has taken the rail line out of service. At this point the crossing will probably not be needed and will therefore probably never be built. The main purpose of this agreement is to facilitate the seller and purchaser closing on the sale of the Atlas Mill site so that it can then be annexed into the city. (NOTE that the attached draft agreement refers to the Post Falls Highway District. The final document will be corrected to reflect the City of Coeur d'Alene as the Grantee.)

DECISION POINT/RECOMMENDATION:

Council should approve the public crossing agreement with BNSF for the Atlas Mill site.

**EASEMENT AGREEMENT
FOR PUBLIC CROSSING**

THIS EASEMENT AGREEMENT FOR PUBLIC CROSSING ("**Easement Agreement**") is made and entered into as of the ____ day of _____ 2007 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), and POST FALLS HIGHWAY DISTRICT, a municipal corporation ("**Grantee**").

A. Grantor owns or controls certain real property situated at or near the vicinity of Coeur d'Alene, County of Kootenai, State of Idaho, at Mile Post 9.68, as described or depicted on **Exhibit "A"** attached hereto and made a part hereof (the "**Premises**").

B. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

C. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1 Granting of Easement.

1.1 Easement Purpose. The "**Easement Purpose**" shall be for the purpose of constructing, maintaining and operating a public, at-grade crossing across Railway's property. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the Plans and Specifications (as hereinafter defined) approved as set forth in **Section 5**.

1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and subject to all Laws (as hereinafter defined), including without limitation zoning laws, regulations, and ordinances of municipal and other governmental authorities, if any.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

- (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;
- (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
- (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

1.4 Term of Easement. The Easement Shall Commence on the date following the date on which Grantee receives written notice from Grantor that it has taken out of active rail service the rail line that is crossed

by this public crossing easement. Once the term of this Easement has commenced, the term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual.

Section 2 **Compensation.** Grantee shall pay Grantor, prior to the Effective Date, the sum of Seven Thousand Four Hundred and No/100 Dollars (\$7,400.00) as compensation for the grant of this Easement.

Section 3 **No Warranty of Any Conditions of the Premises.** Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

Section 4 **Nature of Grantor's Interest in the Premises.** GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND GRANTEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. In case of the eviction of Grantee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Grantor of the affected rail corridor, Grantor shall not be liable to refund Grantee any compensation paid hereunder.

Section 5 **Plans and Specifications for Improvements.** If Grantee desires to construct any Improvements within the Premises, Grantee shall submit to Grantor for its review and approval detailed information concerning the design, location and configuration of such Improvements ("**Plans and Specifications**"). As soon as reasonably practicable after Grantor's receipt of the Plans and Specifications and other information required by Grantor about the proposed location of the Improvements, Grantor will notify Grantee in writing whether Grantor has approved or disapproved the design, location and configuration of the proposed Improvements or the Plans and Specifications, and shall include one or more reasons for any disapproval. Grantor may disapprove the Plans and Specifications only where, in Grantor's sole judgment, construction, maintenance, operation or removal of all or any part of the Improvements to be constructed in accordance with the Plans and Specifications would cause Grantee to violate any of the provisions of Section 6.3 hereof. Following any disapproval, Grantee shall have the right to modify the location, configuration or other aspects of the Plans and Specifications of the proposed Improvements and to resubmit such modified information to Grantor for its further review and approval. Grantor may approve or disapprove of the Plans and Specifications in Grantor's sole discretion. Any approval or consent by Grantor of any of such plans shall in no way obligate Grantor in any manner with respect to the finished product design and/or construction. Any such consent or approval shall mean only that such Plans and Specifications meet the subjective standards of Grantor, and such consent or approval by Grantor shall not be deemed to mean that such Plans and Specifications or construction are structurally sound and appropriate or that such Plans and Specifications or construction meet the applicable construction standards or codes. Any deficiency in design or construction, notwithstanding the prior approval of Grantor shall be solely the responsibility of Grantee.

Section 6 **Improvements.**

6.1 Construction of Improvements. If the construction of any Improvements on the Premises is approved by Grantor pursuant to **Section 5** above, Grantee, and Grantee's Contractors, at Grantee's sole cost and expense, shall locate, configure, construct and maintain the Improvements: (i) in a good and workmanlike manner and in strict accordance with the Plans and Specifications approved by Grantor pursuant to the provisions of **Section 5** above, (ii) in conformance with applicable building uses and all applicable engineering, safety and other Laws, (iii) in accordance with the highest accepted industry standards of care, skill and diligence, and (iv) in such a manner as shall not adversely affect the structural integrity or maintenance of the Premises, any structures on or near the Premises, or any lateral support of structures adjacent to or in the proximity of the Premises. The construction of the Improvements within the Premises shall be completed by Grantee and Grantee's Contractors within one (1) year after the Effective Date. Grantee shall provide as built drawings of all Improvements to Grantor promptly upon completion of construction and shall use its best efforts to cause such as built drawings to be electronically accessible to Grantor.

6.2 Maintenance of Improvements. Grantee shall at all times during the term of this Easement Agreement, at Grantee's sole cost and expense, keep and maintain the Improvements located upon the Premises in a structurally safe and sound condition, in good repair and in compliance with the Plans and Specifications and this Easement Agreement. Grantee shall also promptly repair any damage to the Premises or the Improvements caused, either in whole or in part, by Grantee Parties (as hereinafter defined). Grantee shall not cause or permit another person to cause any damage to the Premises or the Improvements, and Grantee shall be responsible for any such damage which may occur as a result of any Grantee Party's action or inaction. Grantee shall not permit the existence of any nuisance or the accumulation of junk, debris or other unsightly materials on the Premises and shall keep the Premises in a clean and safe condition. Grantee shall, at its sole cost and expense, remove ice and snow from the Premises. Grantee shall keep the Premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on the Premises, said work of cutting and removal to be done at such times and with such frequency as to comply with local Laws and regulations and abate any and all hazard of fire. Grantor shall have no obligation whatsoever, monetary or non-monetary, to maintain the Improvements in the Premises.

6.3 No Interference. During the construction of, and any subsequent maintenance performed on, operation of, or removal of, all or any portion of the Improvements, Grantee, at Grantee's sole cost, shall perform all activities and work on or near Grantor's rail corridor or property and/or the Premises in such a manner as to preclude injury to persons or damage to the property of Grantor, or any party on or with property on Grantor's rail corridor or property, and shall ensure that there is no interference with the railroad operations or other activities of Grantor, or anyone present on Grantor's rail corridor or property with the authority or permission of Grantor. Grantee shall not disturb any improvements of Grantor or Grantor's existing lessees, licensees, license beneficiaries or lien holders, if any, or interfere with the use of such improvements. Grantor may direct one of its field engineers to observe or inspect the construction, maintenance, operation or removal of the Improvements, or any portion thereof, at any time to ensure such safety and noninterference, and to ensure that the Improvements comply with the Plans and Specifications. If any Grantee Party is ordered at any time to leave the Premises or to halt any activity on the Premises, then the party conducting that activity immediately shall cease such activity and leave the Premises, if the order was issued by Grantor's personnel to promote safety, such noninterference with other activities or property, or because the Improvements were not in compliance with this Easement Agreement. Notwithstanding the foregoing right of Grantor, Grantor has no duty or obligation to observe or inspect, or to halt work on, the Premises, it being solely Grantee's responsibility to ensure that the Improvements are constructed, maintained, operated and removed in strict accordance with all Laws, safety measures, such noninterference and the Plans and Specifications and in compliance with all terms hereof. Neither the exercise nor the failure by Grantor to exercise any right set forth in this **Section 6.3** shall alter the liability allocation set forth in this Easement Agreement.

6.4 No Alterations. Except as may be shown in the Plans and Specifications approved by Grantor for the Easement, Grantee may not make any alterations to the Premises, or permanently affix anything to the Premises, without Grantor's prior written consent. If Grantee desires to change either the location of any of the Improvements or any other aspect of the Plans and Specifications of any of the Improvements, Grantee shall submit such change and modified Plans and Specifications to Grantor in writing for its approval in the same manner as provided for in **Section 5**. Grantee shall have no right to commence any such change until after Grantee has received Grantor's approval of such change in writing.

6.5 Approvals; Compliance with Laws and Safety Rules.

- (a) Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required approvals or authorizations from applicable governmental authorities.
- (b) Prior to entering the Premises, and at all times during the term of this Easement Agreement, Grantee shall comply, and shall cause its contractor, any subcontractor, any assignee, and any contractor or subcontractor of any assignee performing work on the Premises or entering the Premises on behalf of Grantee (collectively, "**Grantee's Contractors**"), to comply, with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) (collectively, "**Laws**"), and all of Grantor's applicable safety rules and regulations including those found on the website noted below in **Section 6.5(c)**.
- (c) No Grantee Party may enter the Premises without first having completed Grantor's safety orientation found on the website: www.contractororientation.com.

6.6 Other Improvements. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist.

6.7 Flagging and Other Costs. Grantee shall not conduct any activities on, or be present on, any portion of the Premises or Grantor's rail corridor or property that is within twenty-five (25) feet of any active railroad track, except in the presence of a flagman. In any case where a flagman or flagmen are required in connection with the presence of individuals on Grantor's rail corridor or the Premises, Grantee shall provide as much advance notice as possible prior to any entry upon the Premises. Grantor shall arrange for the presence of the flagman or flagmen as soon as practicable after receipt of such notice from Grantee. Grantee shall reimburse to Grantor, within thirty (30) days following Grantee's receipt of each bill therefor, Grantor's costs in arranging for and providing the flagman or flagmen, which shall be billed to Grantee at Grantor's then applicable standard rate. Grantee agrees to reimburse Grantor (within thirty (30) days after receipt of a bill therefore) for all other costs and expenses incurred by Grantor in connection with Grantee's use of the Premises or the presence, construction, maintenance, and use of any Improvements situated thereon.

6.8 No Unauthorized Tests or Digging. Grantee, and Grantee's Contractors, must not conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on Grantor's rail corridor or property (whether or not such centerline is located within the Premises), except after Grantee has obtained written approval from Grantor, and then only in strict accordance with the terms and any conditions of such approval.

6.9 Boring. Prior to conducting any boring work on or near Grantor's rail corridor or property (which shall only be permitted within the Premises), Grantee and Grantee's Contractors shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Grantee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Upon Grantee's written request, which shall be made thirty (30) business days in advance of Grantee's proposed

construction or modification of any Improvements, Grantor will provide to Grantee any information that Grantor has in the possession of its Engineering Department concerning the existence and approximate location of Grantor's underground utilities and pipelines at or near the vicinity of any proposed Improvements. Prior to conducting any boring work, Grantee, and Grantee's Contractors, shall review all such material. Grantor does not warrant the accuracy or completeness of information relating to subsurface conditions and Grantee's, and Grantee's Contractors', operations at all times shall be subject to the liability provisions set forth herein. For all bores greater than 20 inches in diameter and at a depth less than ten (10) feet below the bottom of a rail, Grantee, and Grantee's Contractors, shall perform a soil investigation which must be reviewed by Grantor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Grantor's reasonable opinion that granular material is present, Grantor may select a new location for Grantee's use, or may require Grantee, and Grantee's Contractors, to furnish for Grantor's review and approval, in Grantor's sole discretion, a remedial plan to deal with the granular material. Once Grantor has approved any such remedial plan in writing, Grantee, and Grantee's Contractors, at Grantee's sole cost, shall carry out the approved plan in accordance with all terms thereof and hereof. Any open hole, boring or well constructed on the Premises by Grantee, or Grantee's Contractors, shall be safely covered and secured at all times when anyone who is not creating it, working in it or using it as permitted hereunder is present in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises shall be promptly filled in by Grantee and Grantee's Contractors to surrounding ground level with compacted bentonite grout, or otherwise secured or retired in accordance with any applicable Laws. No excavated materials may remain on Grantor's rail corridor or property for more than ten (10) days, and must be properly disposed of by Grantee and Grantee's Contractors in accordance with applicable Laws.

6.10 Drainage of Premises and Property. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Premises shall be made and maintained by Grantee in such manner, form and to the extent as will provide adequate drainage of and from the Premises and Grantor's adjoining right of way; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from the Premises and Grantor's adjoining right of way, Grantee shall construct and maintain such culverts or drains within the Premises as may be requisite to preserve such natural and pre-existing drainage. Grantee shall wherever necessary, construct extensions of existing drains, culverts or ditches through or along the Property, such extensions to be of adequate sectional dimensions to preserve flowage of drainage or other waters, and/or material and workmanship equally as good as those now existing.

6.11 Taxes and Recording Fees. Grantee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Grantor or the Premises that are attributable to the Improvements. Grantee agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the Memorandum of Easement. In the event of Grantee's failure to do so, if Grantor shall become obligated to do so, Grantee shall be liable for all costs, expenses and judgments to or against Grantor, including all of Grantor's legal fees and expenses.

6.12 Modification, Relocation or Removal of Improvements. If at any time, Grantor desires the use of its rail corridor in such a manner that, in Grantor's reasonable opinion, would be interfered with by any portion of any Improvements or the Easement, Grantee, at Grantee's sole cost, shall make such changes in the Improvements and/or Premises that, in the sole discretion of Grantor, are necessary to avoid interference with the proposed use of Grantor's property, including, without limitation, Grantee relocating or removing all or a portion of the Improvements from the Premises. Grantor acknowledges that, in some instances, Improvements will not need to be moved or removed from the Premises, but can be protected in place, subject to approval by Grantor's engineering department. Grantee hereby waives any rights that it may have to use condemnation Laws to keep Improvements in place and not relocate or remove the Improvements where relocation or removal is required by Grantor. Where it is practicable to do so, Grantor shall provide to Grantee at least one hundred twenty (120) days prior written notice that Improvements must be modified, removed or relocated, and in circumstances where one hundred twenty (120) days notice is not practicable, Grantor shall provide to Grantee as much notice as it reasonably can, and in no case less than twenty (20) days prior written notice. Grantee shall ensure that all Improvements are modified, removed or relocated as required on or before the date set forth in Grantor's written notice.

Section 7 Indemnification.

7.1 TO THE FULLEST EXTENT PERMITTED BY LAW, GRANTEE SHALL AND SHALL CAUSE GRANTEE'S CONTRACTORS TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS GRANTOR AND GRANTOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY, "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS EASEMENT AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,**
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS EASEMENT AGREEMENT,**
- (iii) OCCUPATION AND USE OF THE PREMISES BY GRANTEE'S OR GRANTEE'S OFFICERS, AGENTS, INVITEES, LICENSEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER (INDIVIDUALLY, A "GRANTEE PARTY," AND COLLECTIVELY, "GRANTEE PARTIES"),**
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY GRANTEE PARTIES, OR**
- (v) ANY ACT OR OMISSION OF GRANTEE PARTIES,**

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH GRANTEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

7.2 TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 7.1, GRANTEE SHALL AND SHALL CAUSE GRANTEE'S CONTRACTORS TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT GRANTOR IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE IMPROVEMENTS FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. GRANTEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. GRANTEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS EASEMENT AGREEMENT SHALL NOT IN ANY WAY SUBJECT GRANTOR TO CLAIMS THAT GRANTOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL GRANTOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

7.3 TO THE FULLEST EXTENT PERMITTED BY LAW, GRANTEE SHALL AND SHALL CAUSE GRANTEE'S CONTRACTORS TO, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME

THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF GRANTEE OR ANY OF ITS AGENTS, INVITEES, CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.

7.4 Upon written notice from Grantor, Grantee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this Easement Agreement for which Grantee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Grantee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

Section 8 Insurance. Grantee shall, at its sole cost and expense, procure and maintain during the life of this Easement Agreement the following insurance coverage:

A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$2,000,000 each occurrence and an aggregate limit of at least \$4,000,000. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage may be included on the policy.

B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
- ◆ Any and all vehicles owned, used or hired

C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:

- ◆ Grantee's statutory liability under the worker's compensation Laws of the state(s) in which the work is to be performed. If optional under State Law, the insurance must cover all employees anyway.
- ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

D. Railroad Protective Liability Insurance is required if there is any construction or demolition activities. This insurance shall name only the Railway as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the Railway prior to performing any work or services under this Easement Agreement

If available and in lieu of providing a Railroad Protective Liability Policy, Grantee may participate in the Railway's Blanket Railroad Protective Liability Insurance Policy available to Grantee or its contractor. The limits of coverage are the same as above.

- I elect to participate in Grantor's Blanket Policy;
- I elect not to participate in Grantor's Blanket Policy.

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Grantee agrees to waive its right of recovery against Railway for all claims and suits against Railway. In addition, its insurers, through policy endorsement, waive their right of subrogation against Railway for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Grantee further waives its right of recovery, and its insurers also waive their right of subrogation against Railway for loss of its owned or leased property or property under its care, custody, or control.

Grantee's insurance policies through policy endorsement, must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by Railway. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall include a severability of interest endorsement and shall name Railway and **Staubach Global Services - RR, Inc.** as an additional insured with respect to work performed under this Easement Agreement. Severability of interest and naming Railway and **Staubach Global Services - RR, Inc.** as an additional insured shall be indicated on the certificate of insurance.

Grantee is not allowed to self-insure without the prior written consent of Railway. If granted by Railway, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Grantee in lieu of insurance. Any and all Railway liabilities that would otherwise, in accordance with the provisions of this Easement Agreement, be covered by Grantee's insurance will be covered as if Grantee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing work, Grantee shall furnish to Railway an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railway in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Railway, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Railway or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Grantee represents that this Easement Agreement has been thoroughly reviewed by Grantee's insurance agent(s)/broker(s), who have been instructed by Grantee to procure the insurance coverage required by this Easement Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Railway may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Grantee, Grantee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Railway as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Railway to the same extent and under the same terms and conditions as Grantee is required to release, defend and indemnify Railway herein.

Failure to provide evidence as required by this **Section 8** shall entitle, but not require, Railway to terminate the Easement immediately. Acceptance of a certificate that does not comply with this **Section 8** shall not operate as a waiver of Grantee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Grantee shall not be deemed to release or diminish the liability of Grantee including, without limitation, liability under the indemnity provisions of this Easement Agreement. Damages recoverable by Railway shall not be limited by the amount of the required insurance coverage.

For purposes of this **Section 8**, Railway shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

Section 9 Environmental.

9.1 Compliance with Environmental Laws. Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

9.2 Notice of Release. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

9.3 Remediation of Release. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

9.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

9.5 Evidence of Compliance. Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 9**. Should Grantee not comply fully with the above-stated obligations of this **Section 9**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice of termination upon Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 12**.

Section 10 PERSONAL PROPERTY WAIVER. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF GRANTEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

Section 11 Default and Termination.

11.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

11.2 Grantor's Termination Rights. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee: (i) if default shall be made in any of the covenants or agreements of Grantee contained in this Easement Agreement, (ii) in case of any assignment or transfer of the Easement by operation of law, or (iii) if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

11.3 Effect of Termination or Expiration. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 12**.

11.4 Non-exclusive Remedies. The remedies set forth in this **Section 11** shall be in addition to, and not in limitation of, any other remedies that Grantor may have at law or in equity.

Section 12 Surrender of Premises.

12.1 Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform the following:

- (a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;

- (b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;
- (c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
- (d) leave the Premises in the condition which existed as of the Effective Date.

12.2 **Limited License for Entry.** If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

Section 13 Liens. Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee pursuant to **Section 6**. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 13** or any other section of this Easement Agreement.

Section 14 Tax Exchange. Grantor reserves the right to assign this Easement Agreement to Apex Property & Track Exchange, Inc. ("**Apex**"). Apex is a qualified intermediary within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended, and Treas. Reg. § 1.1031(k)-1(g), for the purpose of completing a tax-deferred exchange under said Section 1031. Grantor shall bear all expenses associated with the use of Apex, or necessary to qualify this transaction as a tax-deferred exchange, and, except as otherwise provided herein, shall protect, reimburse, indemnify and hold harmless Grantee from and against any and all reasonable and necessary additional costs, expenses, including, attorneys fees, and liabilities which Grantee may incur as a result of Grantor's use of Apex or the qualification of this transaction as a tax-deferred transaction pursuant to Section 1031. Grantee shall cooperate with Grantor with respect to this tax-deferred exchange, and upon Grantor's request, shall execute such documents as may be required to effect this tax-deferred exchange.

Section 15 Notices. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Grantor: BNSF Railway Company
 2500 Lou Menk Dr. – AOB3
 Fort Worth, Texas 76131
 Attn: Director of Real Estate

With a copy to: BNSF Railway Company
 2500 Lou Menk Drive
 Fort Worth, Texas 76131
 Attention: _____

If to Grantee: _____

Section 16 **Recordation.** It is understood and agreed that this Easement Agreement shall not be in recordable form and shall not be placed on public record and any such recording shall be a breach of this Easement Agreement. As of the Effective Date, a legal description of the Premises is not available. Grantee and Grantor shall work together in good faith to establish the legal description for the Premises. Once Grantor and Grantee have approved the legal description, Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as **Exhibit "B"** (the "**Memorandum of Easement**"). The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located. If a Memorandum of Easement is not executed by the parties and recorded as described above within 60 days of the Effective Date, Grantor shall have the right to terminate this Easement Agreement upon notice to Grantee.

Section 17 **Miscellaneous.**

17.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of Texas without regard to conflicts of law provisions.

17.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

17.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

17.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

17.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

17.6 Time is of the essence for the performance of this Easement Agreement.

[Signature page follows]

Law Department Approved

Witness the execution of this Easement Agreement as of the date first set forth above.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE:

POST FALLS HIGHWAY DISTRICT,
a Municipal Corporation

By: _____

Name: _____

Title: _____

Law Department Approved

EXHIBIT "A"

Premises

EXHIBIT "B"

Memorandum of Easement

THIS MEMORANDUM OF EASEMENT is hereby executed this ___ day of _____, 2007, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and POST FALLS HIGHWAY DISTRICT, a municipal corporation ("**Grantee**"), whose address for purposes of this instrument is _____, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

WHEREAS, Grantor owns or controls certain real property situated in Kootenai County, Idaho as described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "**Premises**");

WHEREAS, Grantor and Grantee entered into an Easement Agreement, dated _____ (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

WHEREAS, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

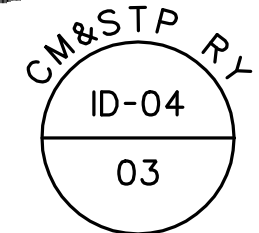
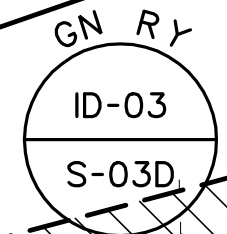
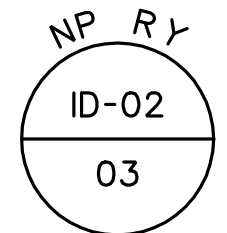
All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.

[Signature page follows]

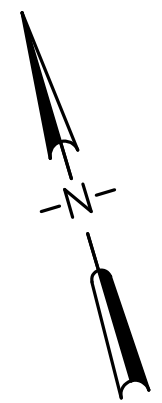
EXHIBIT "A"

Staubach Tracking TI*:C7.035
 B&W Proj. No.: 012196.003
 MAP REFERENCE:
 Sta. - s51734
 R/W - r52369
 Land - N/A

Scale: 1" = 100' +/-



This map used by BNSF RAILWAY COMPANY in the ordinary course of business, but it is subject to audit and should be used only with the expressed understanding the BNSF make no representations whatsoever about the quality, accuracy, errors or omissions relating to this map.



MATCH

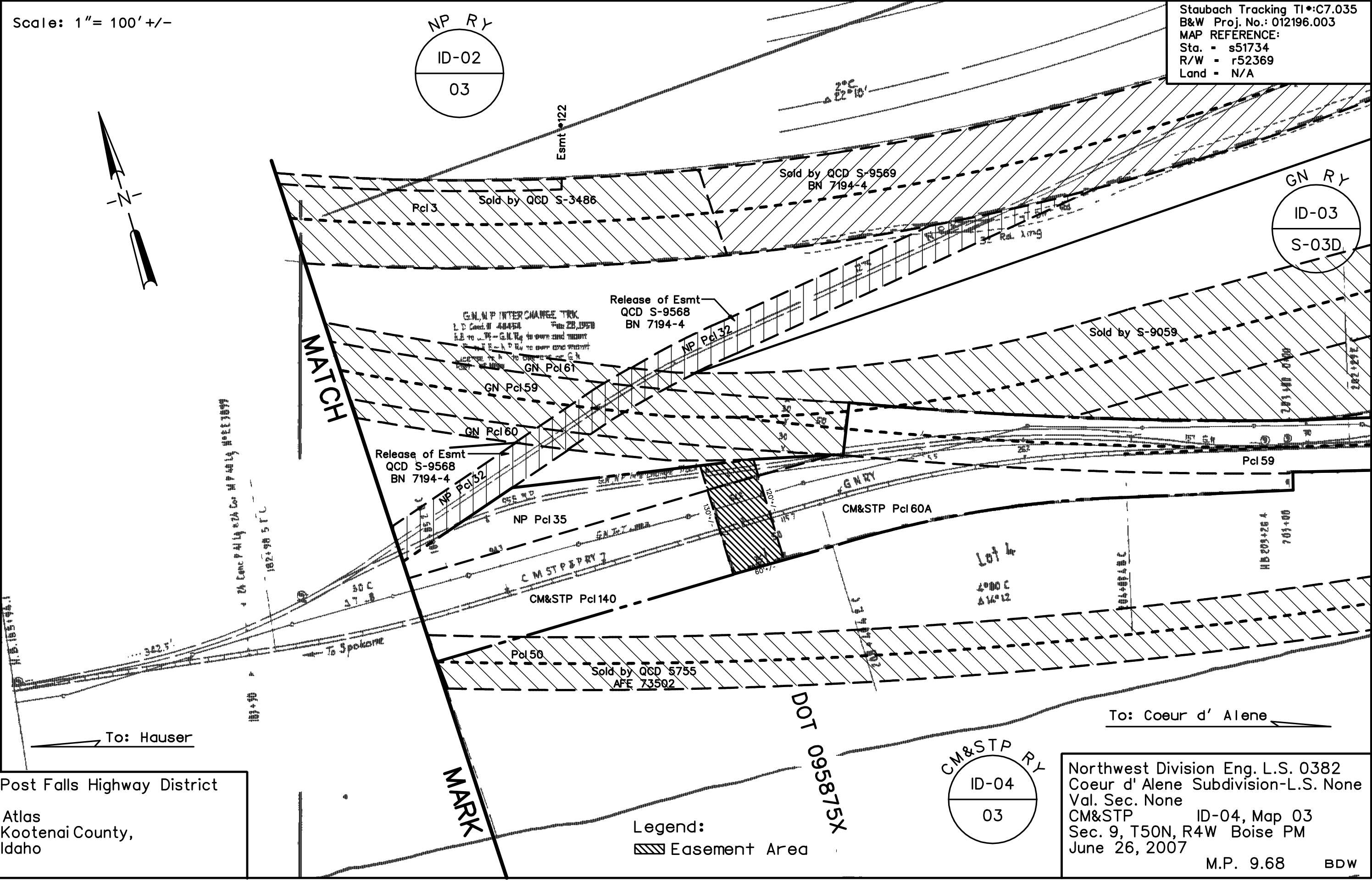
MARK

DOT 095875X

Legend:
 Easement Area

To: Post Falls Highway District
 At: Atlas
 Kootenai County,
 Idaho

Northwest Division Eng. L.S. 0382
 Coeur d' Alene Subdivision-L.S. None
 Val. Sec. None
 CM&STP ID-04, Map 03
 Sec. 9, T50N, R4W Boise PM
 June 26, 2007
 M.P. 9.68 BDW



**CITY COUNCIL
STAFF REPORT**

DATE: September 4, 2007
FROM: Christopher H. Bates, Project Manager 
SUBJECT: **Stagecoach Commercial Park Subdivision: Acceptance of Improvements, Maintenance/Warranty Agreement and Security Approval**

DECISION POINT

Staff is requesting the following:

1. City Council acceptance of the installed public improvements for the Stagecoach Commercial Park subdivision.
2. City Council approval of the maintenance/warranty agreement and security.

HISTORY

- a. Applicant: James Coulter
Northwest Investors, LLC
PO Box 3486
Hailey, ID 83333
- b. Location: Southwest corner of Government Way & Haycraft Avenue.
- c. Previous Action:
 1. Final plat approval of Stagecoach Commercial Park, February 2005.

FINANCIAL ANALYSIS

The developer is providing warranty security amounting to \$1,511.00 to insure the maintenance of the installed public infrastructure improvements during the one (1) year warranty period.

PERFORMANCE ANALYSIS

The applicant is warranting the installed public infrastructure, and, the appropriate City departments have approved the installations and have found them ready to accept them for maintenance. Acceptance of the installed improvements will allow the issuance of Certificate's of Occupancy on all completed units and allow for issuance of all remaining building permits for the development. The City maintenance will be required to start after the one (1) year warranty period expires on September 4, 2008.

DECISION POINT RECOMMENDATION

1. Accept the installed public improvements.
2. Approve the Maintenance/Warranty agreement and accompanying security.

AGREEMENT FOR MAINTENANCE/WARRANTY OF SUBDIVISION WORK

THIS AGREEMENT made this ____ day of September, 2007 between Northwest Investors, LLC, whose address is PO Box 3486, Hailey, ID 83333, with James H. Coulter as Managing Member, hereinafter referred to as the "**Developer**," and the city of Coeur d'Alene, a municipal corporation and political subdivision of the state of Idaho, whose address is City Hall, 710 Mullan Avenue, Coeur d'Alene, ID 83814, hereinafter referred to as the "**City**";

WHEREAS, the City has previously approved the final subdivision plat of Stagecoach Commercial Park, a two (2) lot commercial development in Coeur d'Alene, situated in the southeast quarter of Section 2, Township 50 North, Range 4 West, B.M., Kootenai County, Idaho; and

WHEREAS, the Developer completed the installation of certain public improvements in the noted subdivision as required by Title 16 of the Coeur d'Alene Municipal Code and is required to warrant and maintain the improvements for one year; NOW, THEREFORE,

IT IS AGREED AS FOLLOWS:

The Developer agrees to maintain and warrant for a period of one year from the approval date of this agreement, the public improvements as shown on the "Stagecoach Manor Sewer Extension Plan", signed and stamped by Steven W. Syrcle, PE # 11055, Inland Northwest Consultants, Inc., and, dated March 3, 2005, including but not limited to: sanitary sewer system and appurtenances, concrete curb and sidewalk as required under Title 16 of the Coeur d'Alene Municipal Code.

The Developer herewith delivers to the City, security in a form acceptable to the City, for the amount of One Thousand Five Hundred Eleven and 00/100 Dollars (\$1,511.00) securing the obligation of the Developer to maintain and warrant the public subdivision improvements referred to herein. The security shall not be released until the 4th day of September 2008. The City Inspector will conduct a final inspection prior to the release of the security to verify that all installed improvements are undamaged and free from defect. In the event that the improvements made by the Developer were not maintained or became defective during the period set forth above, the City may demand the funds represented by the security and use the proceeds to complete maintenance or repair of the improvements thereof. The Developer further agrees to be responsible for all costs of warranting and maintaining said improvements above the amount of the security given.

Owner's Reimbursement to the City: The Parties further agree that the City has utilized substantial staff time to prepare this agreement, which will benefit the Owner. The Parties further agree the City should be reimbursed a reasonable fee for its costs to prepare such agreement. The Parties further agree that such fee should be in the amount of Twenty Five and No/100 Dollars (\$25.00).

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year first above written.

City of Coeur d'Alene

Sandi Bloem, Mayor

ATTEST

Susan Weathers, City Clerk

Northwest Investors, LLC



James H. Coulter, Managing Member

STAFF REPORT

DATE: June 6, 2007

TO: Public Works Committee

FROM: Mike Gridley, City Attorney

SUBJECT: Amendments to Hawk's Nest and Landings Annexation Agreements
regarding construction of a temporary lift station and force main sewer system

DECISION POINT: Whether the City should agree to amendments to the Annexation Agreements with Hayden LLC (HLLC) and Blue Grass Development LLC (BGDLLC) regarding the construction of a temporary sewer system for the Hawk's Nest (HN) and Landings (LS) subdivision.

HISTORY: HLLC has proposed that it be allowed to build a temporary lift station and force main to serve the HN and LS subdivisions. The force main would be located on the former UP right of way and would be constructed this summer. The force main would address HN's and LS' immediate need for additional sewer hookups and create a paved extension of the Centennial Trail from Riverstone to Huetter Road. HN and LS would share the cost of construction, operation and maintenance. When the Huetter Interceptor is constructed HN and LS would connect to it and cease using the force main. (See attached letters dated April 4, 2007 and May 25, 2007 for further background regarding the proposal and the staff's response)

The original HN annexation agreement allows for 115 temporary sewer hookups. After that, no more hookups are allowed until the Huetter Interceptor is built. Various issues and new opportunities have caused a rethinking of the timing of the construction of the Huetter Interceptor. These include:

1. Availability of the UP right of way for the location of a sewer line;
2. HN selling the 115 lots much sooner than anticipated;
3. Uncertainty of the location and obtaining an easement for the construction of the Huetter Interceptor across non-annexed property owned by Roy Armstrong;
4. Recognition of the likely difficulty and inconvenience to citizens living in the Woodside subdivision if the Huetter Interceptor is built;
5. Recognition that the \$200,000 siphon in Mill River would not need to be built until the Huetter Interceptor is built;
6. Recognition that the \$600,000 bore under I-90 would not need to be built until the Huetter Interceptor is built;
7. Construction of the force main would allow for the construction of a paved extension of the Centennial Trail from Riverstone to Huetter Road this year;

8. Construction of the force main may allow the City the option of pumping treated effluent from the wastewater treatment plant for use to irrigate land along the right of way.

FINANCIAL ANALYSIS: There will be no additional costs to the City. Cost of construction, operation and maintenance will be paid by the developers and/or the subdivision homeowners' associations.

PERFORMANCE ANALYSIS: The current annexation agreements require construction of the Huetter Interceptor by HLLC and BGDLLC. The proposed amendments would allow HN and LS to be served by a temporary sewer system until such time as the Huetter Interceptor is constructed to the edge of these subdivisions, at which time they would be required to connect to the Huetter Interceptor. In the meantime further analysis can be done regarding the routing of the Huetter Interceptor across the Armstrong property as well any options that exist for sewerage the Armstrong, HN and LS properties as efficiently and cost-effectively as possible. Further, construction of the force main will require HLLC and BGDLLC to purchase an easement from the Centennial Trail Foundation. The proceeds from the sale of the easement will pay for the paving of the new Prairie Trail from Riverstone to Huetter Road. In addition, construction of the force main provides a possible location for a "purple pipe" that could be used to transport treated effluent from the wastewater treatment plant for land application along the right of way and parks. This will give the wastewater utility an option for getting out of the Spokane River during the critical summer months as well as eliminate the need for more wells to provide for landscape irrigation. The proposal is supported by the City's Wastewater, Engineering, Finance and Legal Departments as well as City Administration and the Centennial Trail Foundation.

QUALITY OF LIFE ANALYSIS: The proposal benefits the HN and LS developments because it solves their immediate sewer needs while getting those subdivisions out of the Ramsey Basin. The system can be constructed this summer which allows more time and maximum flexibility for the planning and development of the Armstrong property. The proposal would result in the construction of a new paved trail that would allow a connection from the northwest subdivisions to Holy Family School, Woodland Middle School, Ramsey Elementary, Ramsey Park, Kroc Community Center, Riverstone and beyond at no cost to the City. Finally, the proposal creates an option for getting the City's treated wastewater out of the Spokane River during the critical summer months.

DECISION POINT/RECOMMENDATION: City staff recommends that Council approve the proposal to amend the HN and LS annexation agreements to allow for the construction, operation and maintenance of a lift station and force main under terms to be negotiated by staff for approval by Council.

**AMENDMENT 2
TO
ANNEXATION AGREEMENT BETWEEN
CITY OF COEUR D'ALENE AND BLUE GRASS DEVELOPMENT, LLC AND OWEN
F. JACKLIN DECEDENT'S TRUST AND GLADYS JACKLIN SURVIVOR'S TRUST
RECORDED AS INSTRUMENT # 1840343**

WHEREAS, The above parties entered into an Annexation Agreement on September 2, 2003, adopted pursuant to Resolution No. 03-077, regarding the annexation of a certain parcel of real property located at the southeast corner of Huetter Road and Prairie Avenue into the City of Coeur d'Alene (hereinafter "City"); and

WHEREAS, BTTA, LLC an Idaho Limited Liability Company, has purchased the interest of the Owen F. Jacklin Decedent's Trust and the Gladys Jacklin Survivor's Trust in the subject Annexation Agreement; and

WHEREAS, the Annexation Agreement allowed Blue Grass Development, LLC, and BTTA, LLC (hereinafter "Owners") to temporarily provide sewer connections for their development known as "The Landings at Waterford" (hereinafter "the Landings") in the Ramsey Sewer Basin; and

WHEREAS, The Owners were required under the Annexation Agreement to construct the Huetter Sewer Interceptor to provide sewer service in the Huetter Sewer Basin prior to the issuance of the 531st building permit in the Landings, or within 10 years of the execution of the Annexation Agreement, or prior to the issuance of the 2,850th building permit in the Ramsey Sewer Basin; and

WHEREAS, The City was required, under the Annexation Agreement, to collect a surcharge at the time of building permit issuance to help fund construction of the Huetter Interceptor and the Owners were responsible to post bonds at established intervals to secure its obligation to build the Huetter Interceptor; and

WHEREAS, the parties executed Amendment 1 to the Annexation Agreement on December 20th 2005, to provide that in exchange for an additional 115 sewer hook ups in the Ramsey Basin, the Owners would begin construction of the Huetter Interceptor no later than May 15, 2007; and

WHEREAS, the developers of the Hawk's Nest subdivision ("Hawk's Nest") are under this same obligation as a condition of an Annexation Agreement between the City and Hawk's Nest entered into on July 18th 2006; and

WHEREAS, the Owners and Hawk's Nest have encountered difficulties in identifying the precise location for the Huetter Interceptor and acquiring the necessary easements to begin construction in the time allowed; and

WHEREAS, the City, Owners and Hawk's Nest have identified the former Union Pacific right of way ("Prairie Trail corridor"), which is currently owned by the North Idaho Centennial Trail Foundation, as an alternate sewer alignment that will allow both developments to be sewerred in the Huetter Basin until such time as it is practical to construct the Huetter Sewer Interceptor; and

WHEREAS, the North Idaho Centennial Trail Foundation has indicated its willingness to allow the placement of a sewer line on its property in exchange for adequate compensation; and

WHEREAS, the parties have agreed that it is in the best interest of all parties to develop the alternate sewer alignment in order to remove the sewer generated by the Landings and Hawks Nest developments from the Ramsey Basin, a copy of the estimated sewer project cost summary is attached as Exhibit "A".

THEREFORE, in order to secure construction of the alternate sewer alignment in a timely manner the parties mutually agree to amend the Annexation Agreement as follows:

1. Article III. Section 1.4:

Article III, Section 1.4 is amended to read as follows:

1.4. Temporary Sewer:

Because of the difficulty in identifying the location and building the ultimate sewer alignment for the Huetter Sewer Interceptor, the Owners will construct, at no cost to the City, a lift station and force main sewer along the Prairie Trail corridor in a location acceptable to the City and the Trail Foundation. Because it is uncertain when the Huetter Sewer Interceptor will be constructed, the sewer line must be of adequate capacity to provide sewer service indefinitely to the entire Landings subdivision at a minimum. The sewer system for Landings must be designed so that it can ultimately connect to the Huetter Interceptor as shown on the revised regional sewer master plan on file with the City's Wastewater Department. The lift station and force main must be placed adjacent to an all weather surface to allow for access to the line for maintenance and repair. Provided, however, that Owners' net combined cost of easement acquisition and trail surfacing shall not exceed \$400,000.00 less any contributions by the Trail Foundation to the costs of surfacing. The lift station and force main, including but not limited to lift stations, shall be designed so that there is no generation and release of hydrogen sulfide or other foul odor. Construction of the all weather surfacing must be completed prior to July 1, 2008. Building permits will be issued upon acceptance of the lift station and force main or upon City's receipt of bonding for these improvements in accordance with any other subdivision requirements required in accordance with the City Standards. Certificates of Occupancy will not be withheld pending

completion of the all weather surface if all other requirements are met. Provided however, Owners will not be considered in breach of the July 1, 2008 term if Owners are unable to complete an all weather surface because the Trail Foundation has not contributed any cost for the trail surfacing and Owners have expended \$400,000 for cost of easement acquisition and trail surfacing. Upon completion, the City will accept the sewer line as a public sewer facility if the sewer line meets all applicable standards for public sewer lines. Once accepted, the sewer line and lift station will be operated and maintained by the City. Once any existing temporary sewer infrastructure in Landings is no longer being used, it must be immediately abandoned and removed from service in accordance with all applicable regulations. This requirement does not apply to the private sewer main jointly owned by Bluegrass Development and Hayden, LLC which lies in the Atlas Road right-of-way and extends north.

2. Article III. Section 1.5:

Article III, Section 1.5 as amended by Amendment 1, is amended to read as follows:

1.5.1. Reimbursement of Construction Costs and Maintenance of Lift Station and Force Main:

Upon receipt of an invoice from the Owners for work completed on the lift station and force main discussed above in Article III, section 1.4, the City will reimburse the Owners for the completed work up to the amount actually deposited in the Huetter Sewer Interceptor Trust Account that is attributable to the Landings. Owners will not be required to bond for the construction of the lift station and force main or the Huetter Interceptor. Further, except as discussed below at Article III, Section 1.5.2, the Owners will be under no further obligation to deposit monies into the Huetter Sewer Interceptor Trust Account or otherwise contribute to the construction of the Huetter Interceptor. Notwithstanding any other provision in this agreement, the financial contribution by Owners to the construction of the lift station, force main and trail and easement acquisition will be capped at \$500,000.00 plus any monies deposited in the Huetter Sewer Interceptor Trust Account that is attributable to the Landings.

1.5.2. Maintenance surcharge:

Because the lift station and force main discussed above in Article III, section 1.4, may result in increased maintenance costs to the City over time, the Owners agree that the City will continue to collect a nonrefundable surcharge in the amount of Six Hundred Fifty Dollars and no/100 (\$650.00) per Equivalent Dwelling Unit at the time of building permit issuance to be deposited in a separate account to pay for the maintenance costs of the lift station and force main. Owners agree that the City may use any excess funds generated by the surcharge to offset the costs of constructing the Huetter Sewer Interceptor or other sewer or public improvements within the Huetter sewer basin and for reimbursement of fees as set forth herein in Section 1.8.

3. Article III. Section 1.8:

1.8. Reimbursements for installation of offsite water and sewer facilities:

The parties have entered into an agreement regarding reimbursement for offsite water facilities which is not effected by this Amendment. Owners are responsible for 56.5% of the total project costs including construction and easement acquisitions. To the extent Owners contribute more than 56.5% of the projected costs, Owners shall be eligible for reimbursement from a portion of the \$650 surcharge set forth in Section 3.5.2 in an amount and schedule determined by the City Administrator until such time as Owner's contribution equals 56.5%. Owners agree that any monies collected from Landings that are deposited in the Huetter Interceptor Account can be used for construction of the lift station and force main, and further agree that if the Hawk's Nest owner submits an invoice to the City for construction of the lift station and force main that Landings monies in the Huetter Interceptor Account can be paid to the Hawk's Nest owner. The Hawk's Nest owner shall only be reimbursed for monies paid in excess of its 43.5% share of the total project costs.

4. No Further Modification of the Annexation Agreement:

The parties agree that the Annexation Agreement, as herein amended, remains in full force and effect and that this amendment to the Annexation Agreement between the parties does not amend or alter any other right or obligation of either party under the Annexation Agreement.

IN WITNESS WHEREOF, the City of Coeur d'Alene has caused this agreement to be executed by its Mayor and City Clerk, and the Owners have caused the same to be executed.

DATED THIS 4th day of September, 2007.

CITY OF COEUR D'ALENE

OWNERS

By: _____
Sandi Bloem, Mayor

By: _____
John F. Magnuson, Managing Member
Blue Grass Development, LLC

ATTEST:

Susan K. Weathers, City Clerk

By: _____
John F. Magnuson, Managing Member
BTTA, LLC

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 4th day of September, 2007, before me, a Notary Public, personally appeared **Sandi Bloem** and **Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires:

~~~~~

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, a Notary Public, personally appeared **John F. Magnuson**, known to me to be the managing member of **Blue Grass Development, LLC and BTTA, LLC**, whose name is subscribed to the within instrument and acknowledged that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at Coeur d'Alene  
My Commission expires:

**AMENDMENT 2  
TO  
ANNEXATION AGREEMENT BETWEEN  
CITY OF COEUR D'ALENE AND HAYDEN L.L.C.  
RECORDED AS INSTRUMENT # I 2047901000 ON AUGUST 4, 2006.**

WHEREAS, The above parties entered into an Annexation Agreement on July 18<sup>th</sup>, 2006, governing the annexation of a certain parcel of real property located south of the Landings Subdivision between Huetter and Atlas Roads into the City of Coeur d'Alene (hereinafter "City"); and

WHEREAS, The Annexation Agreement allowed Hayden L.L.C. (hereinafter "Owner") to temporarily sewer 115 homes in the Ramsey Sewer Basin in order to generate funds for the construction of the Huetter Sewer Interceptor; and

WHEREAS, Owner was required to begin construction of the Huetter Sewer Interceptor before May 15, 2007; and

WHEREAS, The City was required, under the Annexation Agreement, to collect a surcharge at the time of building permit issuance to help fund construction of the Huetter Interceptor and Owner was required to post a bond and deposit additional sums into the Huetter Sewer Interceptor Trust Account to be used for the construction of the Huetter Interceptor; and

WHEREAS, the developers of the Landings are under a substantially similar obligation as a condition of an Annexation Agreement between the City and Bluegrass Development, LLC on September 2, 2003; and

WHEREAS, the Owner and the Landings have encountered difficulties in identifying the precise location for the Huetter Interceptor and acquiring the necessary easements to begin construction in the time allowed; and

WHEREAS, the City, Owner and the Landings have identified the former Union Pacific right of way ("Prairie Trail corridor"), which is currently owned by the North Idaho Centennial Trail Foundation, as an alternate sewer alignment that will allow both developments to be sewered in the Huetter Basin until such time as it is practical to construct the Huetter Sewer Interceptor; and

WHEREAS, the North Idaho Centennial Trail Foundation has indicated its willingness to allow the placement of a sewer line on its property in exchange for adequate compensation; and

WHEREAS, the parties have agreed that it is in the best interest of all parties to develop the alternate sewer alignment in order to remove the sewer generated by the Landings and

Hawks Nest developments from the Ramsey Basin, a copy of the estimated sewer project cost summary is attached as Exhibit "A".

THEREFORE, in order to secure construction of the alternate sewer alignment in a timely manner the parties mutually agree to amend the Annexation Agreement as follows:

**1. Article III. Section 3.4:**

Article III, Section 3.4 is amended to read as follows:

**3.4. Temporary Sewer:**

Because of the difficulty in identifying the location and building the ultimate sewer alignment for the Huetter Sewer Interceptor, the Owner will construct, at no cost to the City, a lift station and force main sewer along the Prairie Trail corridor in a location acceptable to the City and the Trail Foundation. Because it is uncertain when the Huetter Sewer Interceptor will be constructed, the sewer line must be of adequate capacity to provide sewer service indefinitely to the entire Hawk's Nest subdivision at a minimum. The sewer system for Hawk's Nest must be designed so that it can ultimately connect to the Huetter Interceptor as shown on the revised regional sewer master plan on file with the City's Wastewater Department. The lift station and force main must be placed adjacent to an all weather surface to allow for access to the line for maintenance and repair. Provided, however, that Owner's net combined cost of easement acquisition and trail surfacing shall not exceed \$400,000.00 less any contributions by the Trail Foundation to the costs of surfacing. The lift station and force main, including but not limited to lift stations, shall be designed so that there is no generation and release of hydrogen sulfide or other foul odor. Construction of the all weather surfacing must be completed prior to July 1, 2008. Building permits will be issued upon acceptance of the lift station and force main or upon City's receipt of bonding for these improvements in accordance with any other subdivision requirements required in accordance with the City Standards. Certificates of Occupancy will not be withheld pending completion of the all weather surface if all other requirements are met. Provided however, Owner will not be considered in breach of the July 1, 2008 term if Owner is unable to complete an all weather surface because the Trail Foundation has not contributed any cost for the trail surfacing and Owner has expended \$400,000 for cost of easement acquisition and trail surfacing. Upon completion, the City will accept the sewer line as a public sewer facility if the sewer line meets all applicable standards for public sewer lines. Once accepted, the sewer line and lift station will be operated and maintained by the City. Once any existing temporary sewer infrastructure in Hawk's Nest is no longer being used, it must be immediately abandoned and removed from service in accordance with all applicable regulations.

**2. Article III. Section 3.5:**

Article III, Section 3.5 as amended by Amendment 1, is amended to read as follows:

**3.5.1. Reimbursement of Construction Costs and Maintenance of Lift Station and Force Main:**

Upon receipt of an invoice from the Owner for work completed on the lift station and force main discussed above in Article III, section 3.4, the City will reimburse the Owner for the completed work up to the amount actually deposited in the Huetter Sewer Interceptor Trust Account that is attributable to Hawk's Nest with the exception of the \$250,000.00 to be retained by the City for the acquisition and/or development of the Prairie Trail or for acquiring crossing easements for needed infrastructure as described in Article IV, Section 4.3(A&B). Owner will not be required to bond for the construction of the lift station and force main or the Huetter Interceptor. Further, except as discussed below at Article III, Section 3.5.2, the Owners will be under no further obligation to deposit monies into the Huetter Sewer Interceptor Trust Account or otherwise contribute to the construction of the Huetter Interceptor.

In the event the Landings executes an annexation amendment agreement to allow reimbursement of monies deposited in the Huetter Sewer Interceptor Trust Account that is attributable to the Landings, Owner shall receive such monies upon City's receipt of an invoice from the Owner for work completed on the lift station and force main as provided previously herein. Provided however, if the Landings does not execute such an agreement, Owner shall be eligible for reimbursement as set forth in Section 3.5.3 herein.

Owner agrees that the financial contribution by the developers of the Landings to the construction of the lift station, force main and trail and easement acquisition will be capped at \$500,000.00 plus any monies deposited in the Huetter Sewer Interceptor Trust Account that is attributable to the Landings.

#### 3.5.2. Maintenance surcharge:

Because the lift station and force main discussed above in Article III, section 3.4, may result in increased maintenance costs to the City over time, the Owner agrees that the City will continue to collect a nonrefundable surcharge in the amount of Six Hundred Fifty Dollars and no/100 (\$650.00) per Equivalent Dwelling Unit at the time of building permit issuance to be deposited in a separate account to pay for the maintenance costs of the lift station and force main. Owner agrees that the City may use any excess funds generated by the surcharge to offset the costs of constructing the Huetter Sewer Interceptor or other sewer or public improvements within the Huetter sewer basin and for reimbursement of fees as set forth herein in Section 3.5.3.

#### 3.5.3. Reimbursements for installation of offsite sewer facilities:

Owner is responsible for 43.5% of the total project costs including construction and easement acquisitions. To the extent Owner contributes more than 43.5% of these project costs, Owner shall be eligible for reimbursement for project costs from a portion of the \$650 surcharge set forth in Section 3.5.2 in an amount determined by the City Administrator until such time as Owner's unreimbursed contribution equals 43.5% of the project costs.

**3. No Further Modification of the Annexation Agreement:**

The parties agree that the Annexation Agreement, as herein amended, remains in full force and effect and that this amendment to the Annexation Agreement between the parties does not amend or alter any other right or obligation of either party under the Annexation Agreement.

IN WITNESS WHEREOF, the City of Coeur d'Alene has caused this agreement to be executed by its Mayor and City Clerk, and the Owner have caused the same to be executed.

DATED THIS 4<sup>th</sup> day of September, 2007.

**CITY OF COEUR D'ALENE**

**OWNER**

By: \_\_\_\_\_  
Sandi Bloem, Mayor

By: \_\_\_\_\_  
Tim A. Mueller, Managing Member  
Hayden, LLC

ATTEST:

\_\_\_\_\_  
Susan K. Weathers, City Clerk



STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

On this 4<sup>th</sup> day of September, 2007, before me, a Notary Public, personally appeared **Sandi Bloem** and **Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at Coeur d'Alene  
My Commission expires:


~~~~~  
STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of _____, 2007, before me, a Notary Public, personally appeared **Tim A. Mueller**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires:

**CITY COUNCIL
STAFF REPORT**

DATE: September 4, 2007
FROM: Christopher H. Bates, Project Manager 
SUBJECT: Sorbonne Addition, Final Plat, Subdivision Improvement Agreement and Security Approval

DECISION POINT

Staff is requesting the following:

1. City Council approval of the final plat document, a 244 lot, phased residential development.
2. City Council approval of the subdivision agreement and security.

HISTORY

- a. Applicant: Jason Wheaton
Greenstone-Kootenai, LLC
1421 Meadowwood Lane
Liberty Lake, WA 99019
- b. Location: North of Hanley Avenue, between Cornwall Street & Atlas Road.
- c. Previous Action:
 1. February 2007, CdA Planning Commission approval of the preliminary plat.

FINANCIAL ANALYSIS

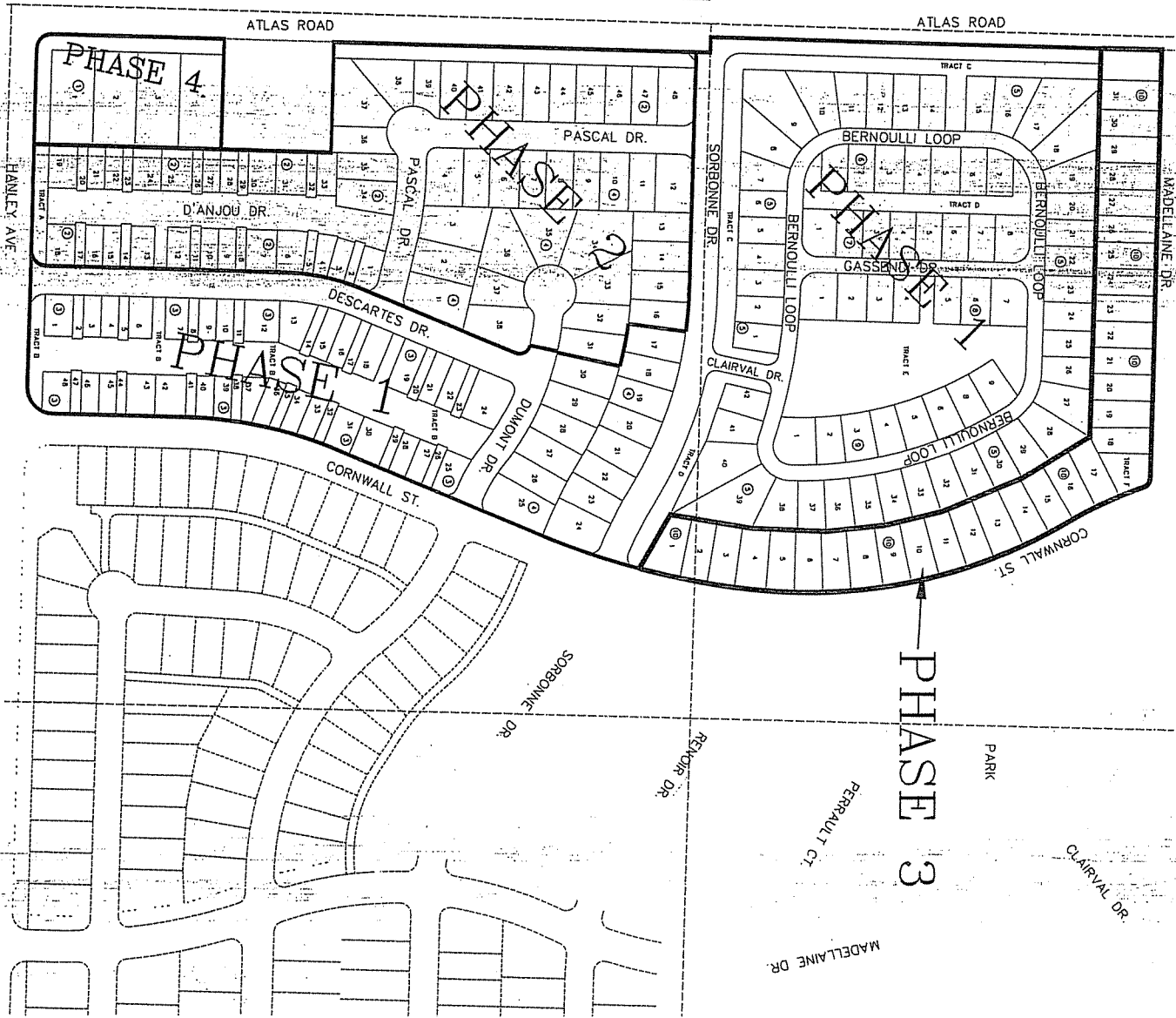
The developer is furnishing security in the amount of \$ 2,487,286.00, and, naming the City of Coeur d'Alene as the recipient to cover the cost of the installation of the required outstanding public improvements should he default on their installation.

PERFORMANCE ANALYSIS

The developer has installed a portion of the required public improvements and is entering into a subdivision agreement and installing security to cover the outstanding items for this phase of the multi phase residential development. The developer has agreed to have the installation of the remaining items completed by September 30, 2009.

DECISION POINT RECOMMENDATION

1. Approve the final plat document.
2. Approve the subdivision agreement and accompanying security.



PHASE 3

PHASE	PHASE TIMELINE*
1	2007-2008
2	2008-2009
3	2009-2010
4	2009-2010

* PHASE TIMING DEPENDENT ON MARKET CONDITIONS.

PRELIMINARY PLAT
PHASING PLAN
FOR
SORBONNE ADDITION
(A PLANNED UNIT DEVELOPMENT)
KOOTENAI COUNTY, IDAHO

ORCOMM
 HANLEY & MERRIFIELD
 1501 S. HARRISON ST., SUITE 302
 BOISE, IDAHO 83725
 TEL: (208) 333-1888
 FAX: (208) 333-1891

GRAPHIC SCALE
 1 inch = 100 ft.

AGREEMENT TO PERFORM SUBDIVISION WORK

THIS AGREEMENT made this ____ day of September, 2007, between Greenstone-Kootenai, Inc., whose address is 1421 Meadowwood Lane, Liberty Lake, WA, 99019, with Jason Wheaton, President, hereinafter referred to as the "**Developer**," and the **City of Coeur d'Alene**, a municipal corporation and political subdivision of the state of Idaho, whose address is City Hall, 710 Mullan Avenue, Coeur d'Alene, ID, 83814, hereinafter referred to as the "**City**,"

WHEREAS, the City has approved, subject to completion of the required improvements, the Sorbonne Addition of the Coeur d'Alene Place development, a phased residential subdivision in Coeur d'Alene consisting of two hundred forty four (244) buildable lots, situated in the southwest quarter of Section 27, Township 51 North, Range 4 West, B.M., Kootenai County, Idaho, and has agreed that the final plat may be recorded; NOW, THEREFORE,

IT IS AGREED AS FOLLOWS:

The Developer agrees to complete the following public improvements: grading, trenching, storm water drainage facilities, sanitary sewer & appurtenances, water system and appurtenances, asphalt paving, concrete curb & sidewalk, landscaping, asphalt bike trail, and mail box installation as required under Title 16 of the Coeur d'Alene Municipal Code, on or before, the 30th day of September, 2009. Said improvements are more particularly described on the subdivision improvement plans entitled "Sorbonne Addition", dated May 22, 2007, stamped by Doug J. Desmond, PE, #10886, on file in the City Engineer's office and incorporated herein by reference.

The Developer, prior to recording the plat, shall deliver to the City, a Letter of Credit or other form of security that is acceptable to the City Attorney, in the amount of Two Million Four Hundred Eighty Seven Thousand Two Hundred Eighty Six and No/100 Dollars (**\$2,487,286.00**) securing the obligation of the Developer to complete the subdivision improvements referred to herein. The term of the security shall extend at least one year beyond the time within which the improvements are to be completed as provided herein, and, a copy of such security is marked Exhibit "A" attached hereto and by reference made a part hereof. The security shall provide that upon failure of the Developer to complete the improvements within the time herein provided, the City may demand the funds represented by the security and use the proceeds thereof to complete or have the improvements completed. In the event the City completes the improvements as a result of the Developer's default, the Developer shall be responsible for any and all costs that exceed the posted security for the public improvements noted herein.

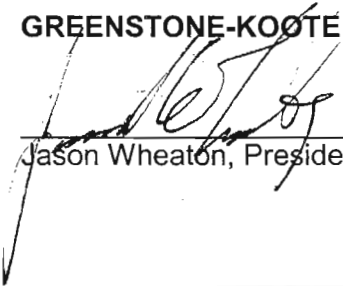
The Parties further agree that the City has utilized substantial staff time to prepare the agreement that will benefit the Developer's. The Parties further agree the City should be reimbursed a reasonable fee for its costs to prepare such agreement. The Parties further agree that such fee should be in the amount of Twenty Five and No/100 Dollars (\$25.00).

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

CITY OF COEUR D'ALENE

GREENSTONE-KOOTENAI, INC.

Sandi Bloem, Mayor



Jason Wheaton, President

ATTEST:

Susan K. Weathers, City Clerk

SUBDIVISION BOND

Bond No.: 5028589

Principal Amount: \$2,487,286.00

KNOW ALL MEN BY THESE PRESENTS, that we **Greenstone Kootenai, 1421 N. Meadowwood Ln., Ste. 200, Liberty Lake, WA 99019**, as Principal, and **Bond Safeguard Insurance Company, an IL Corporation, 1919 S. Highland Ave., Bldg. A, Suite 300, Lombard, IL 60148**, as Surety, are held and firmly bound unto **City of Coeur d'Alene, 710 E. Mullen Ave., Coeur d'Alene, ID 83814**, as Obligee, in the penal sum of **Two Million Four Hundred Eighty Seven Thousand Two Hundred Eighty Six & 00/100 Dollars (\$2,487,286.00)**, lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, **Greenstone Kootenai**, has agreed to construct in **Sorbonne Addition** Subdivision, in **Coeur d'Alene, ID**, the following improvements:

**Grading, Storm Drainage, Sewer, Water, Paving, Curbing, Sidewalk,
Landscaping, Street Trees, Fencing**

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall construct, or have constructed, the improvements herein described, and shall save the Obligee harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void, otherwise to remain in full force and effect, and the Surety, upon receipt of a resolution of the Obligee indicating that the improvements have not been installed or completed, will complete the improvements or pay to the Obligee such amount up to the Principal amount of this bond which will allow the Obligee to complete the improvements.

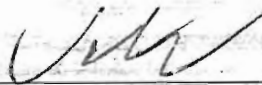
Upon approval by the Obligee, this instrument may be proportionately reduced as the public improvements are completed.

Signed, sealed and dated, this **8th day of August, 2007**.

GREENSTONE KOOTENAI

Principal

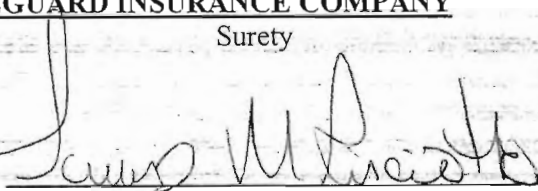
By: _____



BOND SAFEGUARD INSURANCE COMPANY

Surety

By: _____


Tariese M. Pisciotto, Attorney-in-Fact

Bond Safeguard INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS, that **BOND SAFEGUARD INSURANCE COMPANY**, an Illinois Corporation with its principal office in Lombard, Illinois, does hereby constitute and appoint: James I. Moore, Irene Diaz, Bonnie Kruse, Stephen T. Kazmer, Dawn L. Morgan, ****
Peggy Faust, Kelly A. Jacobs, Elaine Marcus, Jennifer J. McComb, Melissa Schmidt, Joel E. Speckman, Heather A. Beck, Tariese M. Pisciotto *****

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surely, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **BOND SAFEGUARD INSURANCE COMPANY** on the 7th day of November, 2001 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond, \$ 2,800,000.00 Two million eight hundred thousand dollars *****

which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **BOND SAFEGUARD INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate seal to be affixed this 7th day of November, 2001.



BOND SAFEGUARD INSURANCE COMPANY

BY *David E. Campbell*
David E. Campbell
President

ACKNOWLEDGEMENT

On this 7th day of November, 2001, before me, personally came David E. Campbell to me known, who being duly sworn, did depose and say that he is the President of **BOND SAFEGUARD INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

"OFFICIAL SEAL"
MAUREEN K. AYE
Notary Public, State of Illinois
My Commission Expires 09/21/09

Maureen K. Aye
Maureen K. Aye
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **BOND SAFEGUARD INSURANCE COMPANY**, An Illinois Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Lombard, Illinois this 8th Day of August, 2007



Donald D. Buchanan
Donald D. Buchanan
Secretary

EXHIBIT "11"

PROVISION FOR FACILITY UTILIZATION AGREEMENT

This agreement by and between the *City of Coeur d'Alene*, Kootenai County, Idaho, hereinafter referred to as the "**City**" and *Kootenai Medical Center, Department of Rehabilitation Services*, in Kootenai County, Idaho, hereinafter referred to as "**KMC – DRS**", is entered into on 3 September 2007, to continue for a period of one calendar year through 2 September 2008, or until terminated by either party as defined under Term & Termination.

SERVICES:

This agreement describes terms, conditions and charges associated with the **City** using the **KMC – DRS** Terrill Aquatic Center, in the McGrane Building, to conduct swim lesson programs in order to improve and develop the water safety programs available to the citizens of Coeur d'Alene and the surrounding communities.

KMC – DRS AGREES TO:

KMC – DRS agrees to maintain and provide the **City** with key access to its therapeutic pool at the Terrill Aquatic Center, McGrane Building, as well as the associated male and female locker rooms in that facility.

CITY AGREES TO:

- The **City** acknowledges that the use of the pool is a revocable privilege granted to the **City** by **KMC – DRS**. This privilege is contingent upon the **City** adhering to **KMC – DRS**'s rules and regulations. The privilege is also contingent upon the pool water, pool area, locker rooms, hallways, lobby, entry way and parking lot being left clean and free of damage. This privilege is also contingent upon the physical presence of an adult (21 year of age or old) during all times of **City** use of the facility; this individual will be responsible for opening the facility and inspecting all defined areas prior to closing, and locking, the facility. The use of the facility will be strictly limited to the areas defined in the third sentence of this bullet.
- The **City** is self-insured to \$500,000.00 and will provide **KMC – DRS** with proof of said insurance.
- The **City** agrees to provide a written request for pool use one month prior to the start date, including start of associated staff training sessions. Ongoing written communication regarding upcoming sessions (including start date, end date and anticipated user volumes) must be provided to the **KMC – DRS** Certified Pool Operator, or designee.
- The **City** agrees that the adult supervisor will be the sole individual issued a key for the facility access. (The **City** further agrees that they will assume financial responsibility for costs associated with "re-keying" the McGrane facility in the event that the adult supervisor loses the key.)
- The **City** agrees that the adult supervisor will schedule time with the **KMC – DRS** Certified Pool Operator to receive instruction in KMC pool policies and procedures.
- The **City** agrees to limit staff and client access within the McGrane Building to: the pool, the men's locker room, the women's locker room, the west entrance, the west lobby, the west waiting and vending area, and the connecting hallways. No staff or clients are allowed behind the west reception desk or in the pool staff office. Further, federal health care privacy regulations forbid pool users for accessing computers, entering patient

record files, or reviewing any **KMC – DRS** written records or materials that may have been inadvertently left lying about.

- The **City** agrees to provide onsite supervision and a Certified Life Guard on the pool deck at all times during pool use pursuant to this agreement.
- The **City** agrees to abide by the scheduled pool times offered by **KMC – DRS**.
- The **City** agrees to be responsible for hiring, training, paying and assuring competency of all instructors involved with lessons provided during pool use time.
- The **City** agrees to be completely responsible for the actions of their supervisors and instructors.
- The **City** agrees to be completely responsible for all notifications, consents and patron education about pool rules regarding aquatic classes and/or programs.
- The **City** agrees share all such written information with **KMC – DRS** representatives for review and editing prior to dissemination to patrons.
- The **City** agrees to schedule all participant registrations or sign-ups offsite from the McGrane Building unless an onsite registration is requested and approved from **KMC – DRS** representatives.
- The **City** agrees that any and all community/participant telephone communication will occur via the Park and Recreation telephone number(s), exclusively, and that **KMC – DRS** telephone numbers will not be referenced in any Coeur d’Alene Park and Recreation literature.
- The **City** agrees to be completely responsible for collecting and managing all program fees from participants.
- The **City** agrees to provide all of their own equipment necessary for their water programs.
- The **City** agrees to accurately record the facility utilization time as being from the time they unlock the doors to enter the McGrane Building until the time when they lock the doors when finally exiting the McGrane Building.

INDEMNIFICATION:

- Kootenai Health, **KMC – DRS** and the **City** have discussed the risks, rewards, benefits and associated **KMC – DRS** fees for service. It is agreed to allocate all risks such that parties agree, to the fullest extent permitted by law, that the parties to this agreement shall not be liable for any reliance upon any mistakes in any records or documentation.
- **KMC – DRS**, on behalf of Kootenai Health, shall indemnify and hold the **City** and the Park and Recreation Department harmless from any and all claims, actions, liabilities and expenses (including costs of settlements, judgments, court costs and attorney fees), regardless of the outcome of such claim, or action, caused by, resulting from, or alleging the negligent or intentional acts or omissions of Kootenai Medical Center or **KMC – DRS** employees or any failure to perform any obligation undertaken or any covenant made by Kootenai Health under this Agreement.
- The **City** shall indemnify and hold Kootenai Health and **KMC – DRS** harmless from any and all claims, actions, liabilities and expenses (including costs of settlements, judgments, courts cost and attorney fees), regardless of the outcome of such claim or action, caused by, resulting from, or alleging the negligent or intentional acts of omissions of the **City** or its employees, or any failure to perform any obligation undertaken or any covenant made by the **City** under this Agreement.

TERM & TERMINATION:

This Agreement may be terminated, with or without cause, by either party upon thirty (30) days written notice delivered by certified mail or in person to one of the individuals identified by their signature to this Agreement. This Agreement will continue for a period of one (1) calendar year from 3 September 2007 until 2 September 2008. This Agreement does not automatically renew, thereby facilitating requisite changes to the terms and rates.

This Agreement must be reviewed and may be amended with both party representatives acknowledging their agreement by their signatures, and date of signature, as indicated below.

BILLING RATE/REIMBURSEMENT:

The **City** agrees to a term of use beginning 3 September 2007 and ending 2 September 2008.

The **City** agrees to pay **KMC – DRS** for pool rental at a reimbursement rate of **\$25.00 per hour**.

The **City** agrees to provide **KMC – DRS**, by the tenth (10th) day of the month, with a detailed report on the date the facility was used and the number of hours it was used each day for the previous month.

The **City** will be mailed a detailed billing invoice by the seventeenth (17th) day of the month reflecting charges for the previous month's facility utilization.

The **City** agrees to reimburse **KMC – DRS** within thirty (30) days of receipt of the billing invoice.

For Kootenai Medical Center:

For the City of Coeur d'Alene:

Tom Legel
Vice President of Finance

Sandi Bloem, Mayor
City of Coeur d'Alene

Carmen Brochu
Vice President Patient Care Services

Attest: Susan K. Weathers
Clerk

Roger Rung
Director of Rehabilitation Services

PUBLIC WORKS COMMITTEE STAFF REPORT

DATE: August 27, 2007
FROM: Gordon Dobler, Engineering Services Director
SUBJECT: No parking on Front street

DECISION POINT

Staff is requesting Council consideration of establishing a No Parking Zone on Front Street adjacent to McEuen Terrace.

HISTORY

We received a request by one of the residents to establish a no parking zone on either side of the westerly driveway entrance to the McEuen Terrace building. An evaluation of the conditions indicated that the driveway is coming up from the parking garage and when the residents are leaving the garage visibility in both directions is extremely limited when cars are parked adjacent to the driveway, because the vehicles are lower than they normally would be.



PERFORMANCE ANALYSIS

Restricting parking on both sides of the driveway for a distance of 2 car lengths (about 40') will allow vehicles exiting the garage adequate visibility. It should be noted that this area is not patrolled by Parking Services so enforcement is based on violations being called in to the police and on police availability.

RECOMMENDATION

Staff recommends that Council adopt a resolution establishing a "No Parking" zone on the north side of Front street from 7th street approximately 120' easterly.

RESOLUTION NO. 07-056

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO ESTABLISHING A NO PARKING ZONE ON FRONT STREET ADJACENT TO MCEUEN TERRACE.

WHEREAS, per Municipal Code Section 10.20.010, no parking zones may be established by duly passed Resolution; and

WHEREAS, the Mayor and City Council have determined that it is in the public interested to establish a no parking zone in the location set forth below; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the following area is designated as a no parking zone:

The North side of Front Street from 7th Street approximately 120' easterly.

DATED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER HASSELL Voted _____

COUNCIL MEMBER REID Voted _____


COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

PUBLIC WORKS COMMITTEE STAFF REPORT

DATE: August 27, 2007
FROM: Christopher H. Bates, Engineering Project Manager 
SUBJECT: **V-07-2, Vacation of a Portion of Excess Seltice Way Right-of-Way Adjoining the Southerly Boundary of the Coeur d'Alene Honda Auto Dealership.**

DECISION POINT:

The applicant, Coeur d'Alene Honda, is requesting the vacation of thirty feet (30') of excess r/w along their property frontage on Seltice Way.

HISTORY:

The four (4) lane divided highway known as Seltice Way was originally constructed as US Highway 10, and originated in 1926. The portion from the Washington state line to CdA was replaced by I-90 in 1971. The right-of-way width adjoining the subject property appears to vary in width from 265' – 275', and has three (3) median breaks located in the segment.

FINANCIAL ANALYSIS:

There is no cost to the City, and, approximately 26,000 sq.ft. would be removed from tax exempt status and added to the County as taxable.

PERFORMANCE ANALYSIS:

The applicant desires to enlarge the auto sales operation on the subject property and construct a new automobile sales facility (drawing attached) on the westerly portion of their site. Vacation of the requested thirty foot (30') portion of r/w would facilitate this process. The existing conditions at the subject property are two (2) westbound 12' travel lanes with a curb adjacent eight foot (8') sidewalk. Landscaping adjacent to the sidewalk contains three large Ponderosa Pine trees that have been examined and by both the City Urban Forester (attached letter) and the Jacobson Tree service (attached letter) , followed by the existing display lot that currently encroaches into the r/w.

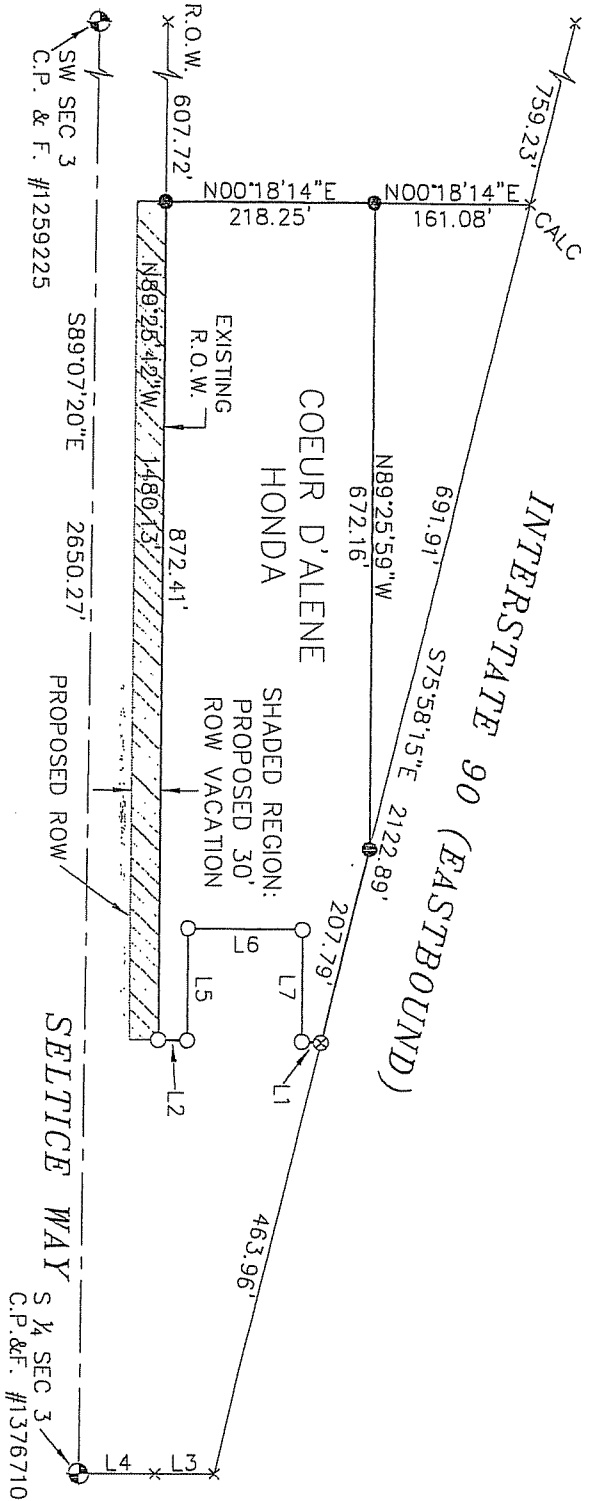
TREE SITUATION: The new site plan relocates the points of ingress and egress, and, at the same time lowers the site to present a more visual picture from the roadway. Relocation of the center access point directly impacts the two westerly pine trees and would result in their removal. The location of this new point of access is very desirable due to the fact that it lines up directly with one of the median crossings and would enhance the safety of customers entering and leaving the subject property. The survivability of the easterly most tree may be dependent upon how much material is remaining after the lowering of the site.

The vacation request, although substantial, would still retain between 8'–10' of right-of-way behind the existing sidewalk. Although the future of the Seltice Way corridor is

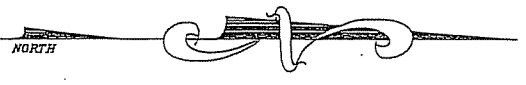
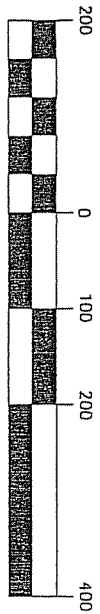
unknown, it is reasonable to assume that it will not grow beyond the existing four (4) lane configuration.

SUMMARY:

Coeur d'Alene Honda is requesting the vacation of thirty feet (30') of excess Seltice Way right-of-way along the southerly boundary of their auto sales facility. The four lane divided highway section has a r/w width at the subject property that varies from 265'-275', with approximately forty feet (40') of r/w situated behind the existing sidewalk. Vacation of the requested r/w would provide for additional area to be utilized in the expansion of the auto sales facility site, and, would still allow provide 8'-10 feet of remainder r/w should it be necessary. Site development would result in the relocation of access approaches, which would be desirable from an engineering and safety standpoint, however, would probably result in the loss of three (3) large ponderosa pine trees.



LINE	LENGTH	BEARING
L1	20.00	S02°37'41\"W
L2	30.00	S00°50'42\"W
L3	61.99	N00°10'05\"E
L4	79.23	N00°10'05\"E
L5	116.86	S89°29'32\"E
L6	119.97	S00°32'52\"W
L7	116.86	N89°29'32\"W



TITLE: EXHIBIT OF PROPOSED 30' RIGHT OF WAY VACATION OF SELTICE WAY AT COEUR D'ALENE HONDA

SCALE: 1"=200' DATE: 8/10/07 FILE: C324-ROS2

FRAME & SMETANA, PA
 Consulting Engineers
 603 North 4th Street, Coeur d'Alene, Idaho, 83814
 Ph. (208)664-2121 / Fax: 765-5502 / Email: smetana@adelphia.net

ES

SHEET 1 OF 1

MEMO

TO: Chris Bates, Engineering

FROM: Karen Haskew

DATE: August 8, 2007

SUBJECT: Urban Forestry Committee Feedback re. Trees on Seltice Way at Honda Site

Four Urban Forestry Committee members and I met on-site with Rita of Honda on Saturday, July 28th. Since then I have met on site with Shelly Servick and other project representatives to clarify some questions from the committee. In addition, two more committee members have visited the site and provided written and verbal feedback. The following is a summary of all of the feedback I have received from the committee.

The Urban Forestry Committee views the three ponderosa pine trees within the right-of-way as a public asset that provides values that should be considered in making decisions regarding vacation of the right-of-way. The three trees are of significant size, all over 30" in diameter. They are healthy, and in good condition. Two of the trees do divide into double trunks, which is not currently a problem, but is a defect that could ultimately shorten the number of useful years. These trees provide the only large tree presence along the 700+ feet of right-of-way abutting this property - and are three of only six large trees on the whole north side of Seltice between the new bridge and Atlas Road. (Note that Honda removed four similar sized trees from the right-of-way in 2003 without obtaining a permit). As an entry to the city, Seltice Way has been identified by the Urban Forestry Committee as a corridor where retention and planting of native species should be encouraged to provide a pleasant, attractive corridor with a unique sense of place.

Therefore, the UF Committee's first comment is that they would prefer that all three trees be retained within the public right-of-way if at all possible. This would require the retention of a minimum of 15 feet of right-of-way behind the back edge of the sidewalk and protection of the root zones during construction, whether the roots are within retained or abandoned right-of-way.

However, the Urban Forestry Committee understands that there are other considerations and site constraints in relation to developing the abutting private property. Among these are: that the center entry driveway should match up with the island cross-over as a traffic safety measure (affecting the eastern-most and center trees); plans call for a reduced elevation on private property for reasons of site drainage and driveway slopes (affecting all trees); and drainage swales are planned for within vacated rights-of way. In addition, the plans show a water connection for a fire hydrant and the new building that is in close proximity to the western-most tree. It is unclear whether there is flexibility for the location of this line.

If these other constraints and considerations do not allow the safe retention of any/all of these trees, the UF Committee feels strongly that the public should be compensated in like kind for the loss of these large trees. Specifically, they would like to see native species replanted within the right-of-way that can ultimately reach a similar size. Since one small newly-

planted trees does not in any way equal the visual or environmental impacts of the loss of one large tree, they would like the total diameter of replacements to equal the total diameter loss – i.e., the loss of 90” of diameter would mean planting 45 2” caliper tree or 30 3” caliper trees, etc. Getting this many public trees along the frontage may not be possible, but maximizing the number and initial size of replacement trees would be a start. A donation to the City’s reforestation account might be considered for any shortfall in replacements.

A consideration affecting the ability to plant large species replacement trees is the relocation of the power lines. The architect said that their plans were that the City abandon all but 8 feet of right-of-way behind the sidewalk. They hope to relocate the overhead power line within these eight feet. This would preclude planting anything but small trees (mature height less than 25 feet in height) within the right-of-way. To meet power company policies and urban forestry ordinance provisions, large native species would have to be planted more than ten feet away from the closest power line (location of the line, not the pole). Therefore, to provide large tree replacements within the public right-of-way would require sufficient right-of-way for the power lines and the trees, which would clearly have to be more than eight feet. If other provision can be made for the power lines (underground or an easement on private property), large species replacement trees could be planted within four or five feet of the sidewalk.

If you have any questions regarding this information, you can contact me on my cell phone (659-1541) or call me at home (772-9892) since I am currently on vacation.



Jacobson Tree Service, Inc.

Dan Jacobson, Certified Arborist, Owner
Adam Jacobson

Telephone (208) 765-6721
P.O. Box 159
Coeur d'Alene, ID 83816

August 9, 2007

Coeur d'Alene Honda
Attn: Rita Snyder

Upon inspecting the 3 Ponderosa Pines on the Coeur d'Alene Honda property, it is my opinion that the 2 western most trees pose a big risk because of their split trunks. An identical tree across the street on the Stimson property broke this year and the part that is left is at great risk of breaking as well. If your trees do split and come down, they could hit power lines, vehicles on your property, or vehicles passing on Seltice Way.

Your plans also include burying utilities and installing a driveway near these trees which would be detrimental to their health and structural stability.

My recommendation is to remove the trees and plant some landscape friendly trees as replacements. Let us know if we can be of further assistance to you.

Thank you,

Dan Jacobson, Owner



**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: August 13th, 2007

FROM: Monte McCully, Trails Coordinator

SUBJECT: **CANFIELD MOUNTAIN HIKING TRAIL** *(Council Action Required)*

DECISION POINT:

Recommend granting permission to a group of volunteer Eagle and Boy Scouts to mark out, flag and clear the brush for a new hiking trail on Canfield Mountain.

HISTORY:

Canfield Mountain has been an important landmark and a valuable view shed in the City of Coeur d'Alene since the city was founded. In the effort to preserve this land from development, a 23-acre parcel was set aside and given to the Parks Department for a future open space area for people to recreate. The main goal of the future planning for this park is to secure funding and create a hiking trail on which users can exercise while enjoying beautiful views of the City of Coeur d'Alene, Coeur d'Alene Lake and the prairie.

FINANCIAL ANALYSIS:

All work being done is on a volunteer basis and will require no funding from the city. All work will be overseen by the Parks Department. The brush that is cleared will be hauled down to a landing and the Parks Department will chip the brush up and dispose of the chips.

PERFORMANCE ANALYSIS:

This flagging and brush clearing is the first step in getting another trail system on par with Tubbs Hill's established trail system.

DECISION POINT RECOMMENDATION:

Recommend granting permission to a group of volunteer Eagle and Boy Scouts to mark out, flag and clear the brush for a new hiking trail on Canfield Mountain.

DATE: AUGUST 29, 2007
TO: MAYOR AND CITY COUNCIL
FROM: PLANNING DEPARTMENT
RE: SETTING OF PUBLIC HEARING DATE: OCTOBER 16, 2007

Mayor Bloem,

The Planning Department has forwarded the following item to the City Council for scheduling of a public hearing. In keeping with state law and Council policy, the Council will set the date of the public hearing upon receipt of recommendation.

<u>ITEM NO.</u>	<u>REQUEST</u>	<u>COMMISSION ACTION</u>	<u>COMMENT</u>
ZC-2-94m	Requested Appeal Applicant Amendola, Andersen & Doty, PLLC Location: 702 N. 4 th Street Request: A modification to Section 2 (1) & (2) of ordinance 2615 allowing for ingress/egress onto Foster Avenue	Recommended denial	Quasi-Judicial

In order to satisfy the mandatory 15-day notice requirement, the next recommended hearing date will be **October 16, 2007**

JS:ss

DATE: AUGUST 29, 2007
TO: MAYOR AND CITY COUNCIL
FROM: PLANNING DEPARTMENT
RE: SETTING OF PUBLIC HEARING DATE: OCTOBER 2, 2007

Mayor Bloem,

The Planning Department has forwarded the following item to the City Council for scheduling of a public hearing. In keeping with state law and Council policy, the Council will set the date of the public hearing upon receipt of recommendation.

<u>ITEM NO.</u>	<u>REQUEST</u>	<u>COMMISSION ACTION</u>	<u>COMMENT</u>
ZC-11-07	Applicant: Michael & Linda Gunderson Location: 304 & 306 W. Haycraft Avenue Request: Zone change from R-12 (Residential At 12 units/acre) to C-17L (Commercial Limited)	Recommended approval	Quasi-Judicial
ZC-12-07	Applicant: Puran Singh Location: 1036 N 15 Street Request: Zone change from R-12 (Residential At 12 units/acre) to NC (Neighborhood Commercial)	Recommended approval	Quasi-Judicial
ZC-13-07	Applicant: Singh & Singh Partnership Location: 1003 N. 15 th Street Request: Zone change from R-12 (Residential At 12 units/acre) to NC (Neighborhood Commercial)	Recommended approval	Quasi-Judicial

In order to satisfy the mandatory 15-day notice requirement, the next recommended hearing date will be **October 2, 2007**

JS:ss

BEER, WINE, AND/OR LIQUOR APPLICATION Expires March 1 annually

**City of Coeur d' Alene
Municipal Services
710 Mullan Avenue
Coeur d' Alene, Idaho 83814
208.769.2229 Fax 769.2237**

[Office Use Only] Amt Pd 25-
 Rec No 298078
 Date 08/27/07
 Date to City Council: 9/4/07
 Reg No. _____
 License No. _____
 Rv _____


Check the ONE box that applies:

<input type="checkbox"/>	Beer only (canned and bottled) not consumed on premise	\$ 50.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled) not consumed on premise	\$250.00 per year
<input type="checkbox"/>	Beer only (canned and bottled only) consumed on premise	\$100.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled only) consumed on premise	\$300.00 per year
<input type="checkbox"/>	Beer only (draft, canned, and bottled) consumed on premise	\$200.00 per year
<input type="checkbox"/>	Beer and Wine (Draft, canned and bottled) consumed on premise	\$400.00 per year
<input type="checkbox"/>	Beer, Wine, and Liquor (number issued limited by State of Id)	\$762.50 per year
<input checked="" type="checkbox"/>	Transfer of ownership of a City license with current year paid	\$25.00

Beer + Wine consumed on premise Draft, Canned & Bottled

Business Name	The Office Tavern	
Business Address	816 N. 4th St. CoeA, ID 83814	
City State Zip	Coeur d'Alene, ID 83814	
Business Contact	Telephone Number: 208-769-4847	Fax: 208-769-4861
Manager Name	Dwight E. Hill	
Manager Home Address	2674 E. Harrison Ave. CoeA	
Manager Information	Social Security No. 503-70-8422	Date of Birth 10-23-56
Manager Contact	Telephone: 769-4847	Cell: 964-6529
Manager Place of Birth	Sioux Falls, SD, USA.	
License Applicant	DEH, LLC.	
Filing Status (circle one)	Sole Proprietor	Corporation Partnership <u>LLC</u> Other
Address of Applicant	2674 E. Harrison Ave. Coeur d'Alene, ID 83814	
Applicants Prior Address for past five years	1133 Harwich Dr. San Marcos, CA 92069	
Applicants Prior Employment for past 5 years	Plastic Molding + Tooling Design	

**CITY COUNCIL
STAFF REPORT**

DATE: September 4, 2007
FROM: Christopher H. Bates, Engineering Project Manager 
SUBJECT: Stovall Condominiums, Final Plat Approval

DECISION POINT

Staff is requesting the following:

1. City Council approval of the final plat document, a 2 lot residential condominium development.

HISTORY

- a. Applicant: Mike Hathaway
Ruen-Yeager & Associates
3201 N. Heutter Road
Suite 102
Coeur d'Alene, ID 83814
- b. Location: Kaleigh Court, north of Spokane Avenue, between 7th & 9th Streets.

FINANCIAL ANALYSIS

There are no financial agreements necessary for this development.

PERFORMANCE ANALYSIS

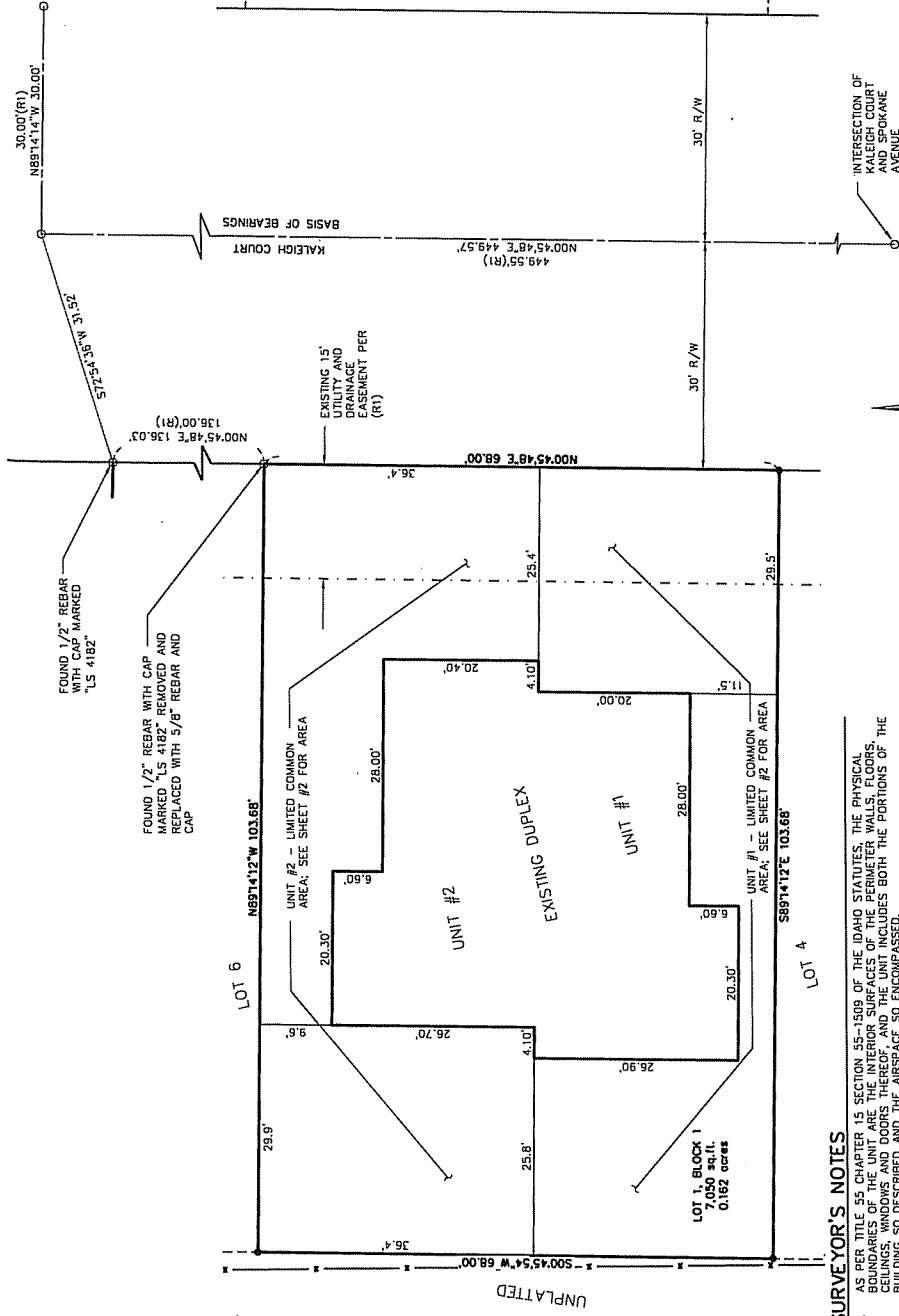
All of the site development issues were previously addressed with the underlying subdivision (Jae's Place). Approval of the final plat document will allow for the sale of the individual condo units, and, the issuance of Certificate's of Occupancy upon completion of all building permit related items.

DECISION POINT RECOMMENDATION

1. Approve the final plat document.

STOVALL CONDOMINIUMS

LOT 5, BLOCK 1 OF JAE'S PLACE
 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 50 NORTH,
 RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO



UNPLATTED

FOUND 1/2" REBAR WITH CAP MARKED "LS 4182" REMOVED AND REPLACED WITH 5/8" REBAR AND CAP

FOUND 1/2" REBAR WITH CAP MARKED "LS 4182"

EXISTING 15' UTILITY AND DRAINAGE EASEMENT PER (R1)

EXISTING DUPLEX

UNIT #1

UNIT #2

LOT 6

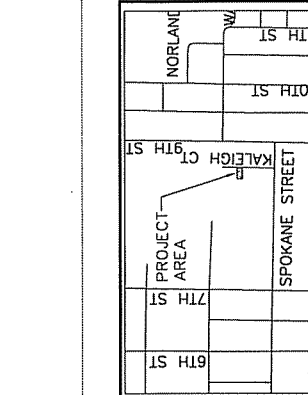
LOT 5

LOT 4

LOT 1, BLOCK 1 OF JAE'S PLACE

INTERSECTION OF KALEIGH COURT AND SPOKANE AVENUE

GRAPHIC SCALE: 1"=10'



VICINITY MAP
 NO SCALE

REFERENCES

R1 PLAT OF JAE'S PLACE, RECORDED IN BOOK J OF PLATS, PAGE 254 AND 254A RECORDS OF KOOTENAI COUNTY, IDAHO.

R2 PLAT OF WINDEMERE ADDITION, RECORDED IN BOOK C OF PLATS, PAGE 228 AND 228A, RECORDS OF KOOTENAI COUNTY, IDAHO.

LEGEND

- SET 5/8" x 30" REBAR WITH A PLASTIC CAP, MARKED "RUEN-YEAGER PLS 11187".
- FOUND "3" ALUMINUM CAP MARKED "LCE PLS 4182", UNLESS OTHERWISE NOTED.

RIGHT-OF-WAY
 BOUNDARY LINE
 EXISTING EASEMENT
 FENCE LINE
 PROPERTY LINE

BASIS OF BEARING

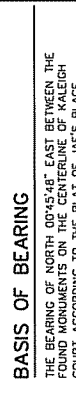
THE BEARING OF NORTH 00°45'48" EAST BETWEEN THE FOUND MONUMENTS ON THE CENTERLINE OF KALEIGH COURT ACCORDING TO JAE'S PLACE.

BASIS OF ELEVATIONS

CITY OF COEUR D'ALENE BENCHMARK D-7, R.R. SPIRE IN UGH FOLEY AT THE CORNER OF SUMMIT AVE. AND GOV'T WAY. ELEVATION=2210.23 FEET.

SURVEYOR'S CERTIFICATE

I, DARREL G. RAMUS, PLS NO. 11187, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THIS IS A TRUE SURVEY OF THE PROPERTY DESCRIBED HEREIN OR UNDER MY DIRECT SUPERVISION IN COMPLIANCE WITH THE LAWS OF THE STATE OF IDAHO.



RUEB-YEAGER & ASSOCIATES, INC.
 CONSULTING ENGINEERS - LAND SURVEYORS
 3201 N. HUETER RD., STE. #102
 COEUR D'ALENE, IDAHO 83814 (208)292-0820
 SANDPOINT, IDAHO 83864 (208)255-4629
 HOSKOW, IDAHO 83864 (208)863-3755


SECTION	TWN.	RNG.	SCALE	PLAT DATE	XXXX
12	50N	4W	1"=10'		
			PROJECT NO.	CHECKED BY	MJH
			DRAWING NO.	DRAWN BY	JFK
					SHEET 1 OF 3

SURVEYOR'S NOTES

- AS PER TITLE 55 CHAPTER 15 SECTION 55-1509 OF THE IDAHO STATUTES, THE PHYSICAL BOUNDARIES OF THE UNIT ARE THE INTERIOR SURFACES OF THE DIMETER, THE PERIMETERS OF THE BUILDING AS DESCRIBED AND THE AIRSPACE SO ENCOMPASSED.
- AS PER TITLE 55 CHAPTER 15 SECTION 55-1509 OF THE IDAHO STATUTES, IN INTERPRETING OR THIS PLAT, THE EXISTING PHYSICAL BOUNDARIES OF THE UNIT AS ORIGINALLY CONSTRUCTED OR BOUNDARIES RATHER THAN THE METES AND BOUNDS EXPRESSED OR DEPICTED ON THIS PLAT, REGARDLESS OF SETTLING OR LATERAL MOVEMENT OF THE BUILDING AND REGARDLESS OF ANY MINOR VARIANCE BETWEEN BOUNDARIES AS SHOWN ON THIS PLAT AND THE ACTUAL BOUNDARIES OF THE UNITS OF THE BUILDING.
- THIS CONDOMINIUM PLAT IS SUBJECT TO THE DECLARATION RECORDED UNDER INST. # _____ IN KOOTENAI COUNTY.
- THIS MAP DOES NOT ATTEMPT TO SHOW ALL UNRECORDED EASEMENTS, PRESCRIPTIVE EASEMENTS OR PHYSICAL FEATURES OF THE PROPERTY.
- SEE SHEET 2 FOR ADDITIONAL DIMENSIONS AND AREAS.
- TIES FROM BUILDING TO LOT CORNERS AS SHOWN ON THIS SHEET ARE PERPENDICULAR TO THE LOT LINE AND ARE TO FIRST FLOOR EXTERIOR WALL CORNERS.

**CITY COUNCIL
STAFF REPORT**

DATE: September 4, 2007
FROM: Christopher H. Bates, Engineering Project Manager
SUBJECT: Pam & Steve's Condominiums, Final Plat Approval



DECISION POINT

Staff is requesting the following:

1. City Council approval of the final plat document, a 2 lot residential condominium development.

HISTORY

- a. Applicant: Mike Hathaway
Ruen-Yeager & Associates
3201 N. Heutter Road
Suite 102
Coeur d'Alene, ID 83814
- b. Location: Kaleigh Court, north of Spokane Avenue, between 7th & 9th Streets.

FINANCIAL ANALYSIS

There are no financial agreements necessary for this development.

PERFORMANCE ANALYSIS

All of the site development issues were previously addressed with the underlying subdivision (Jae's Place). Approval of the final plat document will allow for the sale of the individual condo units, and, the issuance of Certificate's of Occupancy upon completion of all building permit related items.

DECISION POINT RECOMMENDATION

1. Approve the final plat document.

ANNOUNCEMENTS

Memo to Council

DATE: August 22, 2007

RE: Appointments to Boards/Commissions/Committees

The following re-appointment is presented for your consideration for the September 4th Council Meeting:

RICH McKERNAN

DESIGN REVIEW COMMITTEE

A copy of the data sheet is in front of your mailboxes.

Sincerely,

Amy Ferguson
Executive Assistant

cc: Susan Weathers, Municipal Services Director
Dave Yadon, Design Review Committee Liaison

OTHER COMMITTEE MINUTES
(Requiring Council Action)

**GENERAL SERVICES COMMITTEE
MINUTES**

Monday August 27, 2007
4:00 p.m., Council Chambers

COMMITTEE MEMBERS PRESENT

Deanna Goodlander, Chairman
Ron Edinger
A.J. "Al" Hassell, III

CITIZENS PRESENT

Terry Cooper, Downtown Association
Bill Reagan, Hagadone Hospitality
Mr. John Williams, citizen
Lucy Dukes, Coeur d' Alene Press
Taryn Brodwater, Spokesman Review

STAFF PRESENT

Wes Somerton, Chief Criminal Deputy City Attorney
Doug Eastwood, Parks Director
Jon Ingalls, Deputy City Administrator
Troy Tymesen, Finance Director
Susan Weathers, City Clerk
Mike Gridley, City Attorney

**Item 1. Contract for Election Services/Kootenai County.
(Consent Resolution No. 07-055)**

Susan Weathers, City Clerk, is requesting Council approval of an agreement with Kootenai County to provide certain election services for the November 6, 2007 City General Election. Susan reported that for more than 20 years, the City has contract with the Kootenai County Clerk to assist the City Clerk in conducting the election. Susan noted that without the use of the County elections equipment, the City Clerk would have to hand count all ballots which would greatly increase the time for preparing the election returns. The amount budgeted for the election which includes reimbursement to the County for the proposed services to be offered is \$17,000.00.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-055 approving the Contract with Kootenai County for election services.

**Item 2. Public Hearing Notices/Expanding on Idaho Code Requirements.
(Information Only)**

Warren Wilson, Chief Deputy City Attorney, reported that in response to citizen concerns, the Council is asked to review existing procedures and methods of notifying the public of land use actions. The methods of notifying the public about an impending land use action have minimum standards established in Idaho code. This code and subsequent court decisions essentially set forth a standard for legislative and quasi-judicial actions. Local governments may exceed these standards. Warren went on to explain the State Code / City Code, Legislative & Quasi-judicial actions, the City's method of meeting those standards and some possible service enhancements. Discussion ensued regarding costs & various methods of notification. Committee Chair, Goodlander, requested staff form a Steering Committee to look at all options that would streamline the public hearing notice process as well as exceed the standard requirements. Ms. Goodlander then asked Mr. John Williams [present in the audience] if he would be interested in serving on that committee. Mr. John Williams agreed to do so.

Warren added that he believes that an update could be provided to the Committee within a couple of months.

THE COMMITTEE DIRECTED STAFF to form a Steering Committee to look at all options that would streamline the public hearing notice process as well as exceed the standard requirements.

Item 3. Use Agreement with Coeur d' Alene Resort/Ice Skating Rink at 1st and Sherman.
(Agenda Item)

Jon Ingalls, Deputy City Administrator, is asking Council to consider a use agreement that would allow the Coeur d' Alene Resort to test market ice-skating this winter. Jon noted that earlier today the Resort asked to pull this item from the agenda as further scrutiny of the proposed area [circular parking lot in the 1st Street right-of-way] proved not to serve the Resort's needs. However, after further consideration, instead of the Resort seeking permission to use the parking area, the proposal is to use some public grass area which will extend onto city owned property [south/southeast of circular parking lot]. This is an area maintained by the Resort. Jon displayed an aerial map showing the proposed area. Jon addressed the conditions of use to be include in a use agreement as:

- A hold harmless agreement/indemnification (insurance naming city as additional insured for \$1 million per occurrence).
- Specify dates and times of use to protect the pubic from unwanted sound/noise.
- Assurance of public access for use (no public exclusion, no private functions/events).
- A one-time administrative permitting fee of \$500.
- All costs of set up, operations, and restoration required to be borne by the Resort.

Councilman Hassel said he feels this is a worthy cause as long as the Resort will restore the area to it's original condition and that ample access to the boardwalk is allowed.

MOTION: THE COMMITTEE is recommending that the City Council approve the request to allow the Coeur d' Alene Resort to utilize the public / city owned grass area to test market ice-skating this winter.

Item 4. Ordinance Amendment/License Application & Background Checks.
(Council Bill No. 07-1031)

Wes Somerton, Chief Deputy City Attorney, is requesting approval of an amendment to the Municipal Code that will clarify and correct the existing codes as those relate to the office of the city clerk in processing and conducting business license application background checks. Wes noted that the office of the city clerk receives and processes business license applications. For any license that requires a criminal background the police department is authorized to not only conduct the background check but make the determination whether an applicant may conduct business within the city. The Federal Bureau of Investigation and the Idaho State Police control access to and the release of criminal history record information; historically that information was released only to a law enforcement agency. A joint request by the police department and the office of the city clerk was made to allow an ORI number for the office of the city clerk. The city clerk's office processes the business license applications and determines whether an applicant is eligible for a business license. The process has required two departments to handle what one department can competently handle concerning the fitness of an applicant to receive a business license. The proposed amendments simply clarify that the office of the city clerk will determine the fitness of an applicant to do business in the city of Coeur d'Alene. That office will have the primary duty to request and receive criminal history record information on an applicant. The police department will still retain the right to request additional information to perform a background check should the initial information from an applicant be incomplete or inaccurate. What is gained by the processing of business license applications is a more efficient, single source of requesting, receiving and reviewing an applicant's background information.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1031 to clarify and correct the existing codes as those relate to the office of the city clerk in processing and conducting business license application background checks.

Item 5. Housekeeping Amendments/Amendments/corrections to Various City Codes.
(Council Bill No. 07-1032)

Warren Wilson, Deputy City Attorney, is requesting housekeeping amendments to various city codes to correct clerical errors identified by Sterling Codifier.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1032 approving various housekeeping amendment.

Item 6. Canfield Mountain Hiking Trail.
(Consent Calendar)

Doug Eastwood, Parks Director, is requesting approval to grant permission to an Eagle Scout to mark out, flag and clear brush for a new hiking trail on Canfield Mountain. Doug reported that Canfield Mountain has been an important landmark and a valuable view shed in the City of Coeur d'Alene since the city was founded. In the effort to preserve this land from development, a 23-acre parcel was set aside and given to the Parks Department for a future open space area for people to recreate. The main goal of the future planning for this park is to secure funding and create a hiking trail on which users can exercise while enjoying beautiful views of the City of Coeur d'Alene, Coeur d'Alene Lake and the prairie. All work being done is on a volunteer basis and will require no funding from the city. All work will be overseen by the Parks Department. The brush that is cleared will be hauled down to a landing and the Parks Department will chip the brush up and dispose of the chips. This flagging and brush clearing is the first step in getting another trail system on par with Tubbs Hill's established trail system.

MOTION: THE COMMITTEE is recommending that the City Council approve staffs request to grant permission to an Eagle Scout to mark out, flag and clear brush for a new hiking trail on Canfield Mountain.

Item 7. Renewal of Dock Leases/Lake Coeur d' Alene Cruises, Brooks Seaplane, Cd' A Parasail.
(Resolution No. 07-055)

Doug Eastwood, Parks Director, is requesting approval to extend the dock leases through September 2011 for Brooks Seaplane Service, Coeur d' Alene Lake Cruises and Coeur d' Alene Parasail and Water Sports. Which includes consolidating into one lease, the Coeur d' Alene Parasail and Water Sports Bays 4 and 9. Doug reported that each of the vendors do a very good job providing aquatic recreation activity and they all do an excellent job of providing customer service and a positive image for the City of Coeur d'Alene. The contact amounts for the lease agreements goes into the Parks Capital Improvement fund for the acquisition and development of new park land. This is a very good revenue source for the department. The average monthly cost is approximately \$835.00 per bay, per month. We do not collect on a per month basis; the amount for the entire season is paid prior to the beginning of the season.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-055 approving the renewal of the dock leases as requested.

Item 8. Renewal of Lease Agreement/Food Concession with Fantastic Foods.
(Resolution No. 07-055)

Doug Eastwood, Parks Director, is requesting approval to renew the lease agreement with Gordon and Dawna Andrea's *Funtastic Foods* concession at Independence Point for another 3 years to expire on September 20,

2010, with a cost increase each year based on the current Consumer Price Index (CPI) or a flat 3%. Doug reported that Gordon and Dawna Andrea have had their Funtastic Foods concession at this location since 1997. The concession has been a positive asset to our parks system. The owners not only provide quality products they assist their patrons by answering questions about the community and particularly information regarding City Park, Tubbs Hill and McEuen Field.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-055 approving the lease renewal agreement with Gordon and Dawna Andrea's Funtastic Foods concession as requested.

Item 9. Amendment to M.C. 8.24.050/No Swim Areas Designated.
(Council Bill No. 07-1033)

Doug Eastwood, Parks Director, reported that the City has received a request from SRM Development to prohibit swimming in the pond at the Riverstone Park. After discussion with SRM staff recommends implementing a 'no swimming' ordinance at the pond in Riverstone Park. Doug noted that The pond was installed for irrigation purposes and aesthetics. There are cables, aquatic vegetation, and conduit in the pond and it was not designed or built for swimming. Councilman Hassel suggested that verbiage be included that would also prohibit wading.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1033 to establish a 'no swimming or wading' at the Riverstone pond.

ADDED DISCUSSION: Doug reported that at the City Council's January 3, 2007 meeting they directed staff to prepare an ordinance that would prohibit the use of remote control vehicles in Cherry Hill Park and in particular the BMX track area. Due to an oversight, this ordinance was never drafted. Staff would like to include this amendment with the amendment above.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1033 to prohibit the use of remote control vehicles in Cherry Hill Park.

Item 10. Renewal of Use Agreement/Coer d' Alene Soccer Association.
(Resolution No. 07-055)

Doug Eastwood, Parks Director, is requesting that city enter into a one year use agreement, from September 1, 2007, to September 1, 2008, with the Coeur d' Alene Soccer Association for use of the Canfield Sports Complex and the Coeur d' Alene Soccer Complex with the option to renew after the city reviews the recommendations in the new Parks and Recreation Master Plan.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-055 approving the renewal use agreement with Coeur d' Alene Soccer Association.

Item 11. Consulting Services Agreement/For Capital Asset Valuation.
(Resolution No. 07-055)

Troy Tymesen, Finance Director, is requesting approval to contract with American Appraisal for professional valuation consulting services. Troy reported that the purpose of their work would be to develop a comprehensive report covering the capital assets of the City of Coeur d' Alene to assist in meeting the reporting requirements of the Governmental Accounting Standards Board's (GASB) Statement No. 34 and for asset valuation for insurance purposes. GASB Statement No. 34 requires the City to report in it's Annual Financial

Statements for the year ending September 30, 2007 the City's infrastructure including streets, bridges, sidewalks, curbs, street lights, storm drain systems, etc. The City has not had a complete inventory of its buildings and building contents for insurance purposes since 1999. American Appraisal has proposed a price of \$24,000 to appraise the City's Buildings, Land Improvements, Moveable Equipment and Infrastructure. Fees include professional time for planning and executing the work through, and including, American Appraisal's final report. \$30,000 was budgeted in the 2006-07 budget for professional services in the Finance department for this valuation. Having this valuation completed will enable the City to be in compliance with GASB Statement No. 34 for Fiscal Year 2006-07 and will insure that the City's insurance needs are met but not over inflated.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-055 approving the contract with American Appraisal for professional valuation consulting services.

PUBLIC COMMENTS:

Mr. John Williams said he wanted to provide some solutions along with his concerns regarding the public hearing notices. The solutions he suggested are as follows:

- Increase size of lettering on notices posted on property for type of change requested, date of meeting, and location of meeting.
- Increase location of sign height to minimal of 48 inches above ground level.

For Zone Changes

- Denote change simply by stating residential to commercial or residential development in large lettering.
- Place signage within 2 feet of street where parking is allowed or within 2 feet of walkway if possible.

For Mailed Notices

- Exceed minimum requirements of 300 feet from property by mailing out 25 to 30 notices, paid for by applicant, to cover more area. Some locations may be bordered by vacant land, therefore notices may not reach interested parties.

Newspaper legal section

- Exceed notification requirements by printing reason for the public hearing in the title in lay or simple language prior to legal description

Mr. Williams said that these small changes may allow for more public response which is needed to help the Planning and Zoning Commission and City Council in their decisions. Mr. Williams thanked Committee Chair Goodlander for the opportunity to serve on the proposed Steering Committee to address these issues.

The meeting adjourned at 5:15 p.m.

Respectfully submitted,

DEANNA GOODLANDER, Chairman

Juanita Van Cleave
Recording Secretary

**GENERAL SERVICES
STAFF REPORT**

DATE: August 27, 2007
FROM: Jon Ingalls, Deputy City Administrator/Warren Wilson, Deputy City Attorney
**SUBJECT: USE AGREEMENT FOR ICE SKATING IN THE PARKING LOT
LOCATED SOUTH OF SHERMAN AVENUE ON 1ST STREET**

DECISION POINT:

The Council is requested to consider a use agreement that would allow the Coeur d'Alene Resort to utilize the circular lot located in the 1st Street right-of-way and Coeur d'Alene Resort P.U.D to be used for ice skating this winter as a demonstration project.

HISTORY:

There is a small circular parking lot (10 spaces) off of 1st Street south of Sherman Avenue that is part right of way and part privately owned by the Coeur d'Alene Resort developed under a P.U.D. and a separate development agreement. An attached photo illustrates the area. The Coeur d'Alene Resort would like to utilize subject lot this winter on a trial basis to determine the level of interest in ice skating. The Resort would need the parking lot secured for set up on/about October 15, 2007, and skating operations are expected to commence sometime in November and run until about January 15, 2008. The public would have access to use the rink, and all users would pay a fee anticipated to be \$5.00/child, \$9.00/adult with a \$3.00 fee for skate rental. It is understood that the Resort does not anticipate using this lot as a long term location for ice skating, but only as an area to test interest in skating. If interest levels warrant, it is expected that the Resort would build a permanent facility elsewhere.

FINANCIAL ANALYSIS:

This lot is not a revenue producing lot, therefore there would be no loss of revenue. There is no financial impact arising from this decision point other than the modest fee for use.

PERFORMANCE ANALYSIS:

Use of the parking lot for ice skating would have little impact on parking since the limited number of spaces lost temporarily for skating would not compete during peak need for parking during the summer. This lot is not a revenue producing lot. Due to time constraints, this action cannot wait until the Parking Commission's September meeting, however, members have been made aware of this proposal and we have not heard any opposition.

Conditions of use to be included in a use agreement to be executed would include:

- A hold harmless agreement/indemnification (insurance naming city as additional insured for \$1 million per occurrence).
- Specify dates and times of use to protect the public from unwanted sound/noise.
- Assurance of public access for use (no public exclusion, no private functions/events).
- A one-time administrative permitting fee of \$500.
- All costs of set up, operations, and restoration required to be borne by the Resort.

DECISION POINT/RECOMMENDATION:

The Council is requested to consider a use agreement that would allow the Coeur d'Alene Resort to utilize the circular lot located in the 1st Street right-of-way and Coeur d'Alene Resort P.U.D to be used for ice skating this winter as a demonstration project.

Attachment: Photo of area proposed



Privately Owned
Resort PUD

#855

Subject Lot
(R.O.W)
Public

#11899

#7957

#796

#111
EX 1

**GENERAL SERVICES COMMITTEE
STAFF REPORT**

DATE: July 27, 2007

FROM: Wesley J. Somerton – Deputy City Attorney – Criminal Division

SUBJECT: Business License Application & Background Ordinance Amendments

DECISION POINT:

Adopt the proposed ordinance amendments which clarify that the office of the city clerk shall conduct background investigations and receive criminal history record information to determine the fitness of an applicant to conduct business in the City of Coeur d'Alene.

HISTORY:

The office of the city clerk receives and processes business license applications. For any license that requires a criminal background the police department is authorized to not only conduct the background check but make the determination whether an applicant may conduct business within the city. The Federal Bureau of Investigation and the Idaho State Police control access to and the release of criminal history record information; historically that information was released to a law enforcement agency. A joint request by the police department and the office of the city clerk was made to allow an ORI number for the office of the city clerk. The city clerk's office processes the business license applications and determines whether an applicant is eligible for a business license. The process has required two departments to handle what one department can competently handle concerning the fitness of an applicant to receive a business license.

FINANCIAL ANALYSIS:

The initial review of the proposed ordinance does not have an impact on the current cost of doing business. An applicant must pay all fees required for the administrative processing of an application, and pay all processing fees for criminal history record information requests. The city will see a net gain in the reduction of personnel costs by having the city clerk's office receive and review the criminal history record information. This eliminates the redundant review process currently in place between the police department and the office of the city clerk. These make a more efficient process to determine an applicant's eligibility for a business license.

PERFORMANCE ANALYSIS:

The proposed amendments simply clarify that the office of the city clerk will determine the fitness of an applicant to do business in the city of Coeur d'Alene. That office will have the primary duty to request and receive criminal history record information on an applicant. The police department will still retain the right to request additional information to perform a background check should the initial information from an applicant be incomplete or inaccurate. What is gained by the processing of business license applications is a more efficient, single source of requesting, receiving and reviewing an applicant's background information.

DECISION POINT/RECOMMENDATION:

Authorize the proposed amendments that clarify and correct the existing codes as those relate to the office of the city clerk in processing and conducting business license application background checks.

COUNCIL BILL NO. 07-1031
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING CITY CODE SECTIONS 5.28.030, 5.28.050, 5.28.060, 5.32.030, 5.48.030, 5.48.060, 5.52.020, 5.60.020, 5.64.045, 5.64.120, 5.68.040, 5.68.050; PROVIDING CLARIFICATION OF BUSINESS LICENSE APPLICATION PROCESS AND TO MAKE TECHNICAL CORRECTIONS; 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: The Coeur d'Alene City Code has various business license requirements that require background checks and criminal history record information;

WHEREAS: The City Clerk has historically relied upon the police department to obtain and review the criminal history record information of a business license applicant's fitness to conduct business within the City of Coeur d'Alene;

WHEREAS: Historically state and federal law only released criminal history record information to law enforcement agencies;

WHEREAS: Pursuant to the City's request the Federal Bureau of Investigation has authorized the office of the Coeur d'Alene City Clerk to receive criminal history record information; and

WHEREAS: The proposed changes to the existing ordinances serve to clarify that the City Clerk's office shall receive the background information and to make technical corrections; 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 5.28.030, is hereby amended to read as follows:*

5.28.030: License; Massage Facility and Spa; Requirement; Application; Contents: Applications for a massage facility or spa license shall be filed with the ~~city clerk~~ [City Clerk](#), who shall prepare and have printed adequate numbers of application forms. Any person, firm or corporation who does not meet the following requirements shall not be granted a massage facility or spa license.

Each application for a massage facility or spa license shall be signed and sworn to by the person who will conduct, operate or maintain such establishment and shall be accompanied by two (2) black and white or color photographs of the applicant two inches by two inches (2" x 2") in size and taken within six (6) months of the application, showing only the full face of the applicant, one of which shall be affixed to the license when it is issued. In order to determine suitability of prospective applicants for licensing with the ~~city~~ City of Coeur d'Alene, the Coeur d'Alene City Clerk or his/her designee ~~city police department~~ shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho Sstate Ppolice and the Ffederal Bbureau of Iinvestigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~ City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho Sstate Ppolice, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho Sstate Ppolice. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho Sstate Ppolice and from the Ffederal Bbureau of Iinvestigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. In the event the applicant is a corporation, the information required by this section shall be provided for each shareholder, officer and director of the corporation. Failure to meet or comply with the application requirements shall result in a denial of the license. Each application shall be in writing and shall contain the following information:

- A. The name, home address and telephone number of the applicant and of all persons named under subsections C and D of this section; and
- B. The business name, business address and telephone number of the establishment or proposed establishment and a description of the premises on which said business will be conducted; and
- C. The names of all persons owning an interest in such business or proposed business, including any corporate stockholders, and whether such business will be conducted as a sole proprietorship, partnership or corporation; if a partnership, giving the names of all persons sharing in the profits of said business, and, if a corporation, giving the names of its officers and directors and the title of each; and
- D. The names of all persons who will act as proprietor, manager or person in charge of such business or proposed business; and
- E. The prior residences for the past five (5) years, together with the period of residence at each address of the applicant and of all persons required to be named under subsections C and D of this section; and
- F. The age, date of birth and social security number of the applicant and of all persons required to be named under subsections C and D of this section; and

- G. Whether the applicant or any person named under subsections C and D of this section have ever been convicted of any crime or have ever forfeited a bond to appear in court for any crime, excluding minor traffic offenses, and, if so, stating what crime, the date of conviction or forfeiture and the circumstances and disposition of the case; and
- H. The occupation and business name and business address of all prior employers of the applicant and of all other persons required to be named under subsections C and D of this section during the past five (5) years and the nature of the work performed for each of such employers; and
- I. All assumed names or aliases which have been or are used by the applicant and by all persons required to be named under subsections C and D of this section; and
- J. Such other information as the City Clerk and/or the police department may reasonably require for the administration of this chapter.

SECTION 2. *That Coeur d'Alene Municipal Code Section 5.28.050, is hereby amended to read as follows:*

5.28.050 Application for Massage Therapist or Spa Employee License: Application for a massage therapist or spa employee license shall be made to the ~~city clerk~~ City Clerk and shall be accompanied by payment of the fee designated in section 5.28.080 of this chapter. Each application for a massage therapist or spa employee license shall be signed and sworn to by the person so applying and shall be accompanied by two (2) black and white or color photographs of the applicant two inches by two inches (2" x 2") in size and taken within six (6) months of the application, showing only the full face of the applicant, one of which shall be affixed to the license when it is issued. In order to determine suitability of prospective applicants for licensing with the ~~city~~ City of Coeur d'Alene, the Coeur d'Alene ~~City Clerk or his/her designee~~ ~~city police department~~ shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~S~~state ~~P~~police and the ~~F~~federal ~~B~~bureau of ~~I~~nvestigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~ City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~state ~~P~~police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~state ~~P~~police. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~state ~~P~~police and from the ~~F~~federal ~~B~~bureau of ~~I~~nvestigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. Each application shall be in writing and shall contain the following information:

- A. The name, home address, telephone number and age, date of birth and social security number of the applicant; and
- B. The prior residences of the applicant for the past five (5) years, together with the period of residence at each such address; and

- C. Whether the applicant has ever been convicted of any crime or has forfeited a bond to appear in court for any crime, excluding minor traffic offenses and, if so, stating what crime, the date of conviction or forfeiture and the circumstances and disposition of the case; and
- D. The business name, business address and telephone number of the establishment at which the applicant will be employed; and
- E. The occupation and business name and business address of all prior employers of the applicant during the five (5) years preceding the application, and the nature of the work performed for each of such employers; and
- F. All assumed names or aliases which have been or are used by the applicant; and
- G. Whether the applicant will be acting as a proprietor, manager, or person in charge of any massage facility or spa; and
- H. Such other information as the ~~city clerk~~ City Clerk and/or the police department may reasonably require for the administration of this chapter.

Upon receipt of an application for a massage therapist or spa employee license, the ~~city clerk~~ City Clerk may issue a provisional license to an applicant if the ~~city clerk~~ City Clerk determines that such person is in substantial compliance with the provisions of this chapter. A provisional license shall expire one hundred twenty (120) days from the date of the issuance or at such earlier time as the ~~city clerk~~ City Clerk may designate. A massage therapist or spa employee with a provisional license must be under the supervision of a licensed massage facility or spa owner until completion of all criminal history checks and issuance of a license which is not provisional.

SECTION 3. *That Coeur d'Alene Municipal Code Section 5.28.060, is hereby amended to read as follows:*

5.28.060: License: Massage Therapist Requirements:

- A. No person shall be granted a massage therapist's license who does not meet the following requirements: that such person is of good moral character and has never been convicted of a felony or a misdemeanor involving moral turpitude.
- B. The issuance of a license for a "massage therapist" as defined in section 5.28.010 of this chapter shall not require the approval of the ~~city council~~ City Council, but may be granted after proper application to and background investigation by the ~~city clerk~~ City Clerk ~~and background investigation by the police department.~~
- C. The police department may also include and request additional information in the applications which is deemed reasonable and necessary for proper investigation.

SECTION 4. *That Coeur d'Alene Municipal Code Section 5.32.030, is hereby amended to read as follows:*

5.32.030 License; Application; Fee: All applications for a license shall be made in writing and filed with the ~~city clerk~~ City Clerk; ~~who shall remit the application to the police department for background investigation.~~ The application shall contain the full name, age and address of the applicant, his/her fingerprints and such other information as shall be deemed necessary to conduct enable the police department to make an adequate background investigation. No license under this chapter shall be granted to any person who, within ten (10) years prior to the date of application for a license, has been convicted of a felony nor unless the applicant is a citizen of the United States of good moral character. In order to determine suitability of prospective applicants for licensing with the ~~city~~ City of Coeur d'Alene, the Coeur d'Alene ~~city police department~~ City Clerk shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~S~~ state ~~P~~ police and the ~~F~~ federal ~~B~~ bureau of ~~I~~ investigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~ City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~ state ~~P~~ police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~ state ~~P~~ police. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~ state ~~P~~ police and from the ~~F~~ federal ~~B~~ bureau of ~~I~~ investigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. As required by section 5.60.020 of this title, "License; Fee; Application", all fees required for the criminal history check shall be tendered at such time as the application is made. After such investigation, the City Clerk or his/her designee and/or the police department shall approve or reject the application. Should an application be approved the police department approve the application, the ~~city clerk~~ City Clerk shall issue the license to the applicant upon payment of the license fee in an amount set by resolution of the ~~city council~~ City Council as set forth in section 5.60.020 of this title. Should an application be rejected the police department reject the application, the basis for the rejection its decision may be appealed to the ~~city council~~ City Council.

Upon receipt of an application for merchant policeman, the ~~city clerk~~ City Clerk may issue a provisional license to an applicant if the ~~city clerk~~ City Clerk determines that such person is in substantial compliance with the provisions of this chapter. A provisional license shall expire one hundred twenty (120) days from the date of issuance or at such earlier time as the ~~city clerk~~ City Clerk may designate. A merchant policeman with a provisional license must be under the supervision of a licensed merchant police agency owner or a licensed supervisor until completion of all criminal history checks and issuance of a license which is not provisional.

SECTION 5. *That Coeur d'Alene Municipal Code Section 5.48.030, is hereby amended to read as follows:*

5.48.030: License; Application; Issuance Conditions:

- A. It shall be unlawful to operate, maintain, or otherwise have a detective agency or be employed thereby without first being licensed pursuant to this chapter.
- B. The license fees provided for in section 5.60.020 of this title shall be paid yearly. ~~All~~ Applications for a licenses shall be made in writing and filed with the ~~city clerk~~ City Clerk. The City Clerk may seek advice from and referred by him or her to the police department regarding which shall inquire into the qualifications of the applicant, ~~and If the City Clerk it~~ finds the applicant qualified under the provisions of this chapter, ~~the City Clerk it~~ may recommend that the license be issued the license by the city clerk. If the ~~City Clerk police department~~ finds that the applicant does not meet with such qualifications, ~~he/she it~~ shall deny the application and give notice thereof to the ~~city clerk and to the~~ applicant. No license required by this chapter shall be granted to any person who, within ten (10) years of the date of such application for a license, has been convicted of a felony nor unless the applicant is a citizen of the United States of good moral character. In the case of an application for a detective agency, no detective agency license shall be issued to any applicant unless he or she is a citizen of the United States, of good moral character, and shall have at least five (5) years' prior experience as an employee of a regularly constituted police force or the equivalent experience as an employee of a bona fide detective agency. In order to determine suitability of prospective applicants for licensing with the ~~city City~~ of Coeur d'Alene, the Coeur d'Alene ~~city City Clerk or his/her designee police department~~ shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~Sstate Ppolice~~ and the ~~Ffederal Bbureau of Iinvestigation~~. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city City~~ of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~Sstate Ppolice~~, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~Sstate Ppolice~~. The ~~city City~~ of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~Sstate Ppolice~~ and from the ~~Ffederal Bbureau of Iinvestigation~~ for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. As required by section 5.60.020 of this title, "License; Fee; Application", fees required for the criminal history check shall be tendered at such time as the application is made. No license for a detective agency shall be issued to a corporation not authorized to do business in the state. Private detective and detective agency licenses shall expire on December 31 of each year.
- C. Upon receipt of an application for private detective, the ~~city clerk~~ City Clerk may issue a provisional license to an applicant if the ~~city clerk~~ City Clerk determines that such person is in substantial compliance with the provisions of this chapter. A provisional license shall expire one hundred twenty (120) days from the date of issuance or at such earlier time as the ~~city clerk~~ City Clerk may designate. A private detective with a provisional license must be under the supervision of a licensed private detective agency owner until completion of all criminal history checks and issuance of a license which is not provisional.

SECTION 6. *That Coeur d'Alene Municipal Code Section 5.48.060, is hereby amended to read as follows:*

5.48.060: Employment Records: Every person licensed under the provisions of this chapter shall keep a book containing the full name, place of residence, address, complete and accurate description and history or record of each person employed regularly or occasionally as a private or special detective within the city. Each employee shall also be designated in the book by a separate number. Upon the request of the ~~City Clerk and/or the chief of police~~ Chief of Police or of any person(s) designated by ~~them him~~, the book herein required to be kept, shall be exhibited for the inspection of the ~~City Clerk and/or the chief of police~~ Chief of Police or of any person(s) designated by ~~them him~~ to inspect the same, and the failure or refusal to comply with the request shall constitute cause for the revocation of his/her license.

SECTION 7. *That Coeur d'Alene Municipal Code Section 5.52.020, is hereby amended to read as follows:*

5.52.020: License and Fee:

A. 1. No person shall engage in, conduct or carry on the business of loaning money with articles kept as security or to buy and sell used articles without first obtaining a license to do so from the ~~city clerk~~ City Clerk of the ~~city~~ City of Coeur d'Alene. The fee for such license shall be as set forth in section 5.60.020 of this title.

2. No license shall be issued under this chapter to any person, partnership, or association if such person, member of the partnership, any officer, director, or manager of any corporation or association or any person having a direct financial interest in the business other than as lessor, mortgagee, or vendee, has been convicted of a felony or had a license under this chapter revoked, within five (5) years of the date of application for license, or unless the applicant is a citizen of the United States of America.

3. All applications for a license under this chapter shall be made to the ~~city clerk~~ City Clerk and ~~shall be referred to the police department which who~~ shall inquire into the qualifications of the applicant. In order to determine suitability of prospective applicants for licensing with the ~~city~~ City of Coeur d'Alene, ~~the Coeur d'Alene city police department shall require~~ each specified applicant ~~shall~~ ~~to~~ provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~S~~state ~~P~~police and the ~~F~~federal ~~B~~bureau of ~~I~~nvestigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~ City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~state ~~P~~police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~state ~~P~~police. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~state ~~P~~police and from the ~~F~~federal ~~B~~bureau of ~~I~~nvestigation for the purpose of evaluating the fitness of applicants for

licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. As required by section 5.60.020 of this title, "License; Fee; Application", fees required for the criminal history check shall be tendered at such time as the application is made. Should the City Clerk or his/her designee ~~police department~~ determine that the applicant is qualified for a license under the provisions of this chapter, ~~it shall report to the city clerk that the applicant is qualified and~~ the license shall be issued by the clerk. Should the City Clerk or his/her designee ~~police department~~ find that the applicant does not meet the qualification requirements under this chapter, the application shall be denied.

- B. No license required by this chapter is transferable from one person or location to another person or location.

SECTION 8 . *That Coeur d'Alene Municipal Code Section 5.60.020, is hereby amended to read as follows:*

5.60.020: License; Fee; Application:

- A. Every person required by any provision to obtain a license to engage in any trade, business or profession for which a license is required shall pay to the Treasurer/Finance Director the sums required in subsection B1 and 2.
- B. Every person required by any provision of the Coeur d'Alene Municipal Code to obtain a license to engage in any trade, business or profession for which a license requires fingerprinting for a criminal history check by the ~~Federal- Bureau- of- Investigation-~~ Identification Division through the Idaho Department of Law Enforcement/Bureau of Criminal Investigation shall additionally pay the following costs:
 - 1. The fee charged by the Idaho Department of Law Enforcement/Bureau of Criminal Investigation for a criminal history check; and
 - 2. An administrative processing fee which shall be set by resolution of the City Council.
- C. Payment of ~~the all fees~~ charged and assessed for any application, background or criminal history record or license fee ~~by the Idaho Department of Law Enforcement/Bureau of Criminal Investigation~~ shall be paid to the City of Coeur d'Alene at the time the application is first made.

~~With the receipt of the Treasurer, which receipt shall set forth the kind of business for which a license is desired, they shall apply to the Clerk who shall issue a license upon compliance with all licensing requirements.~~
- D. Every person required by any provision of the Coeur d'Alene Municipal Code to obtain a license to engage in any trade, business or profession for which a license requires fingerprinting for a criminal history check by the ~~Federal- Bureau- Investigation-~~ Identification Division through the Idaho Department of Law Enforcement/Bureau of Criminal Investigation shall as part of an

application properly complete a criminal history check request authorization and self-declaration form prepared by the Coeur d'Alene City Clerk.

- E. Every person required by any provision of the Coeur d'Alene Municipal Code to obtain a license to engage in any trade, business or profession for which a license requires fingerprinting for a criminal history check by the ~~Federal- Bureau of- Investigation-~~ Identification Division through the Idaho Department of Law Enforcement/Bureau of Criminal Investigation who seeks a temporary license shall have the temporary license revoked in the event a criminal history check reveals a violation which would preclude issuance of a regular license. In the event of such revocation, the procedure for revocation and appeal set forth for the particular type of license shall be followed. ~~In the event a procedure does not exist, the notice and hearing procedure of Coeur d'Alene Municipal Code Section 5.04.070 shall be followed.~~

SECTION 9 . *That Coeur d'Alene Municipal Code Section 5.64.045, is hereby amended to read as follows:*

5.64.045: License; Application; Amusement Arcade: Every person, firm or corporation desiring to obtain a license for the operation of an amusement arcade, as required by this chapter, shall file a written application with the ~~city clerk~~ City Clerk of the ~~city~~ City of Coeur d'Alene on forms approved by the ~~city clerk~~ City Clerk, together with the license fee required in this chapter. The application shall include the following information:

- A. Individual: The applicant's age, correct name, post office address and residence; the applicant's places of residence for the past five (5) years immediately preceding the time of such application; whether or not the applicant has, within the last five (5) years, been convicted of any crime involving a controlled substance or minors and at least five (5) references of citizens from such community wherein the applicant has last resided for the longest period within the last five (5) years to include the written recommendation of at least two (2) citizens of Coeur d'Alene respecting the applicant's moral character. In order to determine suitability of prospective applicants for licensing with the city of Coeur d'Alene, the Coeur d'Alene ~~city~~ City Clerk ~~police department~~ shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~S~~state ~~P~~police and the ~~F~~federal ~~B~~bureau of ~~I~~investigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the city of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~state ~~P~~police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~state ~~P~~police. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~state ~~P~~police and from the ~~F~~federal ~~B~~bureau of ~~I~~investigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. As required by section 5.60.020 of this title, fees required for the criminal history check shall be tendered at such time as the application is made.

- B. Corporation: In case the applicant for such a license is a corporation, such corporation must be authorized to do business in this state. The application shall be made by the manager of the premises described and such application shall contain all of the statements and furnish all of the facts and recommendations as to such manager as are required in the case of an individual in subsection A of this section. Such license to a corporation shall be revoked upon a change of the manager and a new license shall be required by the ~~city council~~ City Council of the ~~city~~ City of Coeur d'Alene before any new manager shall take charge of such premises for such corporation; provided, however, after a background investigation by the ~~police department~~ City Clerk, the ~~city clerk~~ City Clerk may issue a temporary license for a period of not to exceed sixty (60) days, during which time the corporation must make a new application to the ~~city council~~ City Council naming therein the new manager of the licensed premises. This provision shall not apply to a renewal of a license.
- C. Partnership: In case of partnership, each active partner in the business shall join in the application for such license and shall furnish all of the information and recommendations required of an individual applicant in subsection A of this section.
- D. Location: The applicant shall specify in such application the type of business and the exact location for which the license is required. Such application shall also contain a diagram with dimensions of the premises on which the business will be conducted, including the location of the amusement machines on the premises and each exit from the premises.

SECTION 10 . *That Coeur d'Alene Municipal Code Section 5.64.120, is hereby amended to read as follows:*

5.64.120 Inspection; Adult Operator Required:

- A. Every licensee shall, at all times during business hours, open each and every portion of the licensed premises for inspection by the City Clerk or his/her designee, police department and other city departments for the purpose of enforcing any provisions of this chapter.
- B. Every licensee shall, at all times, display the license granted hereunder in a conspicuous place near the entrance to the licensed establishment.
- C. Every amusement arcade licensee shall have present on the premises or in such portion of the premises where the amusement arcade is located, as the case may be, at least one adult operator at all times that the premises are open to the public. Such adult operator, prior to management of said premises, shall provide to the City Clerk or his/her designee ~~police department~~ all of the following information and recommendations: the applicant's age, correct name, post office address and residence; the applicant's places of residence for the past five (5) years immediately preceding the time of such application; and at least five (5) references of citizens from such community wherein the applicant has last resided for the longest period within the last five (5) years to include the written recommendation of at least two (2) citizens of Coeur d'Alene respecting the applicant's moral character. No certification shall be issued to such adult operator where such operator has been convicted of a crime involving a controlled substance or minors.

SECTION 11 . *That Coeur d'Alene Municipal Code Section 5.68.040, is hereby amended to read as follows:*

5.68.040 License; Application: All applications for childcare licenses shall be filed with the ~~city clerk~~City Clerk and include the following information:

- A. Individual: The applicant's age, legal name, telephone number, post office address, and residence; e-mail address if available; the applicant's places of residence for the past ten (10) years immediately preceding the time of such application; whether or not the applicant has been convicted of any crime involving children or a crime involving moral turpitude. In order to determine suitability of prospective applicants for licensing with the ~~city~~City of Coeur d'Alene, the ~~city~~City of Coeur d'Alene shall require each specified applicant to provide information and fingerprints necessary to obtain criminal history information from the ~~city~~City of Coeur d'Alene police, and/or any state sex offender lists, Idaho ~~S~~state ~~P~~police and the ~~F~~federal ~~B~~bureau of ~~I~~investigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~state ~~P~~police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~state ~~P~~police. The ~~city~~City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~state ~~P~~police and from the ~~F~~federal ~~B~~bureau of ~~I~~investigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. As required by section 5.60.020 of this title, fees required for the criminal history check shall be tendered at such time as the application is made. As Idaho is a community property state, applicant and spouse must both complete the criminal history background check.
- B. Corporation: In case the applicant for such a license is a corporation, such corporation must be authorized to do business in this state. The application shall be made by the manager of the premises described and such application shall contain all of the statements and furnish all of the facts and recommendations as to such manager as are required in the case of an individual in subsection A of this section. Such license to a corporation shall be revoked upon a change of such manager and a new license shall be required by the ~~city council~~City Clerk before any new manager shall take charge of such premises for such corporation; provided, however, the ~~city clerk~~City Clerk, after ~~the~~ background investigation ~~by the police department~~, may issue a temporary license for a period of not to exceed sixty (60) days during which time the corporation must make a new application to the ~~city council~~City Council naming therein the new manager of the licensed premises.
- C. Partnership: In case of partnership, each active partner in the business shall join in the application for such license, and shall furnish all of the information and recommendations required of an individual applicant in subsection A of this section. As Idaho is a community property state, all spouses must also complete the criminal history background check.

- D. Association: In case the applicant for such a license is an unincorporated association, the application shall be made by the manager or managers of the association and shall contain all of the statements as to such manager or managers as are required in the case of an individual in subsection A of this section, and shall be subject to the same provisions for revocation upon a change of manager or managers as provided in the case of corporations in subsection B of this section.

SECTION 12. *That Coeur d'Alene Municipal Code Section 5.68.050, is hereby amended to read as follows:*

5.68.050 License; investigation; inspection of Premises:

- A. Investigation: Before any license shall be issued under this chapter, investigation of the applicant, all other persons for which a criminal history check is required under Idaho Code section 39-1105, and any other person twelve (12) years of age or older that resides at the childcare facility or is regularly present on the premises, and inspection of the premises shall be made by the fire department, police department and other city departments and by the district health department and other agencies as may be deemed necessary to determine that the applicant and the premises fully comply with Idaho Code sections 39-1105, 39-1109, 39-1110, 39-1118 and 39-1119.
- B. Criminal History Check: In order to determine the suitability of prospective applicants for a childcare facility license or employment by such facility, the ~~city~~ City of Coeur d'Alene City Clerk and/or the ; Coeur d'Alene city police department shall require a criminal history check ~~by the police department~~ of all people twelve (12) years of age or older residing, working, or participating at the facility, except supervised volunteers, regardless of time of residence in the county, and any other persons required under Idaho Code section 39-1105 to provide information and fingerprints necessary to obtain criminal history information from the Idaho ~~S~~state ~~P~~police and the ~~F~~federal ~~B~~bureau of ~~I~~investigation. Pursuant to section 67-3008, Idaho Code and congressional enactment public law 92-544, the ~~city~~ City of Coeur d'Alene shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho ~~S~~state ~~P~~police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho ~~S~~state ~~P~~police. The ~~city~~ City of Coeur d'Alene is authorized to receive criminal history information from the Idaho ~~S~~state ~~P~~police and from the ~~F~~federal ~~B~~bureau of ~~I~~investigation for the purpose of evaluating the fitness of applicants for licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. The cost of the criminal history check shall be the amount charged for such background check by the state of Idaho and include any cost required by the ~~F~~federal ~~B~~bureau of ~~I~~investigation and any reasonable administrative fee established by resolution of the ~~city~~ City of Coeur d'Alene. No license shall be issued until such background check has been completed and its subject has been deemed qualified. However, upon the receipt of an application for a childcare provider license, the ~~city-clerk~~ City Clerk may issue a provisional

license to an applicant for a provider license if the ~~city clerk~~City Clerk determines that such person is in substantial compliance with the provisions of this chapter. In determining whether substantial compliance with this chapter exists, the ~~city clerk~~City Clerk shall require completion of all criminal record clearances. A provisional license shall expire one hundred twenty (120) days from the date of issuance or at such earlier time as the ~~city clerk~~City Clerk may designate. A childcare provider or any other person required to undergo a criminal history check must be continually under the supervision of a licensed childcare provider until completion of all criminal record clearances and other required health clearances.

- C. Pending Criminal Charge: If the criminal history check reveals that there is a pending criminal investigation or criminal charge that would result in the revocation or denial of a childcare license if there is a conviction or withheld judgment entered for the charge, the ~~city clerk~~City Clerk may issue a provisional license pending the outcome of any such criminal investigation or criminal case. The person that is the suspect or defendant in such criminal case shall be continually under the supervision of a licensed childcare facility director until resolution of the investigation, any resulting criminal charges or any pending criminal case.
- D. Sex Offender: Any operator or employee who has an immediate family member who is registered on any sex offender list or becomes registered, and who may reasonably be expected to be on the premises at any time must disclose this information, in writing and including a photograph of the registered sex offender, to all employees, parents and the city.

SECTION 13. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

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. 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.

APPROVED, ADOPTED and SIGNED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
AMENDING TITLE 5 "BUSINESS LICENSES AND REGULATIONS"

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING CITY CODE SECTIONS 5.28.030, 5.28.050, 5.28.060, 5.32.030, 5.48.030, 5.48.060, 5.52.020, 5.60.020, 5.64.045, 5.64.120, 5.68.040, 5.68.050; PROVIDING CLARIFICATION OF BUSINESS LICENSE APPLICATION PROCESS AND TO MAKE TECHNICAL CORRECTIONS; 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. _____ 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. _____, AMENDING TITLE 5 "BUSINESS LICENSES AND REGULATIONS", 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 4th day of September, 2007.

Warren J. Wilson, Chief Deputy City Attorney

**GENERAL COMMITTEE
STAFF REPORT**

DATE: *August 27, 2007*

FROM: *Mike Gridley, City Attorney*

SUBJECT: *City Code – Housekeeping Amendments*

DECISION POINT:

Staff is requesting housekeeping amendments to Ordinance No.'s 3283, 3284, 3286 and 3289 to correct various clerical errors identified by Sterling Codifier.

HISTORY:

The needed amendments are as follows:

AMENDING SECTIONS 2.82.010 TO DELETE REFERENCE TO STAGGERED TERMS FOR THE PEDESTRIAN AND BICYCLE ADVISORY COMMITTEE MEMBERSHIP; SECTION 8.12.030 TO CLARIFY FIREWORKS STAND PERMITTED OPERATION DATES AND TIMES; SECTION 8.12.040 TO REPEAL SECTION "C" [WHICH WAS ADDED TO SECTION "A" IN ORDINANCE NO. 3286]; SECTION 8.24.060 TO AMEND MOORING TIMES AND AREAS; SECTION 15.24.220 TO CORRECT A CLERICAL ERROR BY CHANGING R-38 TO R-34 AND ADDING NEIGHBORHOOD COMMERCIAL AND COMMUNITY COMMERCIAL ZONING DISTRICTS; SECTION 15.24.320 TO CLARIFY THE REMOVAL OF DANGEROUS SIGNS WITHOUT NOTICE; SECTION 15.24.480 TO DELETE THE WORD 'PROHIBITED' FROM THE TITLE;

FINANCIAL ANALYSIS:

The cost incurred for this will be the cost of codifying the ordinance.

PERFORMANCE ANALYSIS:

DECISION POINT/RECOMMENDATION:

Staff is requesting a housekeeping amendment to Ordinance No.'s 3283, 3284, 3286 and 3289 to correct various clerical errors identified by Sterling Codifier.

COUNCIL BILL NO. 07-1032
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTIONS 2.82.010 TO DELETE REFERENCE TO STAGGERING TERMS FOR THE PEDESTRIAN AND BICYCLE ADVISORY COMMITTEE MEMBERSHIP AS IT WAS ESTABLISHED IN 2004; SECTION 8.12.030 TO CLARIFY FIREWORKS STAND PERMITTED OPERATION DATES AND TIMES; SECTION 8.12.040 TO REPEAL SECTION "C"; SECTION 8.24.060 TO AMEND MOORING TIMES AND AREAS; SECTION 15.24.220 TO CORRECT A CLERICAL ERROR BY CHANGING R-38 TO R-34 AND ADDING NEIGHBORHOOD COMMERCIAL AND COMMUNITY COMMERCIAL ZONING DISTRICTS; SECTION 15.24.320 TO CLARIFY THE REMOVAL OF DANGEROUS SIGNS WITHOUT NOTICE; SECTION 15.24.480 TO DELETE THE WORD 'PROHIBITED' FROM THE TITLE; 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 recommendation by the Parks & Recreation Commission and the General Services Committee, 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 2.82.010, is hereby amended to read as follows:*

2.82.010: ESTABLISHED; MEMBERSHIP; TERMS:

- A. There is established a pedestrian and bicycle advisory committee in the city which shall consist of fifteen (15) members who will receive no salary. Members of the committee shall be appointed by the mayor and confirmed by the city council and any members may, in a like manner, be removed. The members shall include one city council member, one engineer or landscape architect, one representative from School District 271, one representative from the centennial trail foundation, one representative from the walking community, one representative from the running community, one representative from the bicycling community, one person representing senior citizens, one person representing the special needs/physically challenged community and five persons representing the general public. One additional member shall be a high school student, who attends school within the boundary of School District 271, between the ages of fourteen (14) and eighteen (18) years old.
- B. The term of office of each member shall be four (4) years or until his/her successor is appointed

and qualified, except for the high school student whose term shall be one year. ~~The terms of office of the other members shall be staggered in such a manner that the terms of seven (7) of those members shall expire at the end of one year, and the terms of the other eight (8) of those members shall expire two (2) years later, the terms of office to coincide with the terms of office of city council members. The mayor shall determine which of the first appointed members' terms of office shall expire at the first council meeting in January 2004, and which shall expire at the first council meeting in January two (2) years thereafter.~~

- C. In case of a vacancy in membership, the committee should forward recommendations for appointment to the mayor for consideration. The vacancy shall be filled by appointment of the mayor, confirmed by the city council, and the appointee shall serve during the unexpired portion of the term of the position that became vacant. The mayor shall not be limited in making the appointment to the persons recommended by the committee.

SECTION 2. *That Coeur d'Alene Municipal Code Section 8.12.030, is hereby amended to read as follows:*

8.12.030: PERMIT; REQUIRED; HOURS OF SELLING:

No person without having a valid fireworks permit issued pursuant to terms and conditions set forth in this Chapter shall import, export, possess for the purpose of sale, offer for sale, or sell any fireworks for any use or purpose. No fireworks shall be sold or offered for sale or discharged within the City except between ~~12:00 p.m. noon~~ 8 a.m., June 23 and 10 p.m. July 5 of each year, ~~or except between 12:00 p.m. noon December 26, 1999, and 10 p.m. January 1, 2000, except as provided for in subsection 8.12.040D of this Chapter.~~ The daily hours of ~~permitted~~ operation for each fireworks stand shall be 8:00 a.m. to 10 p.m.

SECTION 3. *That Coeur d'Alene Municipal Code Section 8.12.040, is hereby amended to read as follows:*

8.12.040: PERMIT; APPLICATION; CONTENTS:

- A. Non-Aerial Common Fireworks: Any person desiring to sell nonaerial common fireworks must file an application for a permit with the City Clerk no later than May 15 of any year for a permit to sell during that year. The application must be signed by both the applicant and operator and contain the following information.

1. The name and address of applicant;
2. The names and addresses of the officers, if any, of the applicant;
3. The name and address of the person who will be operating the stand.
3. The location where the applicant will sell fireworks;

4. The name and address of any wholesaler or distributor from whom the retailer proposes to purchase fireworks for resale;
5. The applicant's State sales tax permit number;
6. The manner, methods, and times when and how the applicant proposes to sell fireworks;
7. A drawing depicting the stand dimensions, location of the stand on the property with setbacks from property lines, and uses of adjacent properties.
8. A copy of the "Fireworks Safety Form" signed by the operator and each person employed to work in a fireworks stand. A signed copy of the "Fireworks Safety Form" for each new employee must be submitted to the City before the new employee starts selling fireworks.
9. A complete list of the fireworks that the operator desires to sell at the stand. Additions to the list must be approved in writing by the City before the new fireworks are placed in the stand for sale.

B. Special or Theatrical Firework Displays: Any person desiring to use fireworks as part of a theatrical production or desiring to make a public display of special fireworks, other than nonaerial common fireworks, within the City ~~shall~~must file ~~his~~an application for a permit with the Fire Department at least twenty (20) days in advance of the proposed event. Issuance of a permit for public displays of special fireworks shall be governed by the currently adopted International Fire Code.

~~C. Each application for a permit pursuant to this Section shall contain the following information:~~

- ~~1. The name and address of applicant;~~
- ~~2. The names and addresses of the officers, if any, of the applicant;~~
- ~~3. The location where the applicant will sell fireworks;~~
- ~~4. The name and address of any wholesaler or distributor from whom the retailer proposes to purchase fireworks for resale;~~
- ~~5. The applicant's State sales tax permit number;~~
- ~~6. The manner, methods, and times when and how the applicant proposes to sell fireworks;~~
- ~~7. A drawing depicting the stand dimensions, location of the stand on the property with setbacks from property lines, and uses of adjacent properties.~~

SECTION 4. *That Coeur d'Alene Municipal Code Section 8.24.060, is hereby amended to read as follows:*

8.24.060 VESSEL MOORING; TIME; OTHER RESTRICTIONS AT CITY DOCKS:

1. **Commercial Docks.** No person other than a lessee of space shall operate or moor any vessel at bays one through four (1-4) and six through eight (6-8) of the city commercial dock located at Independence Point.
2. **Mill River Park Docks.** No person shall moor a vessel at the dock located at the Mill River Park at any time between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. or for more than six (6) hours during any twelve (12) hour period.
3. **First Street Docks.** No person shall moor a vessel at the dock located at the south end of First Street at any time between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. or for more than six (6) hours during any twelve (12) hour period.
4. **Third Street Docks.** Boats moored at the docks located at the south end of Third Street are subject to the following regulations:
 - a. No person shall moor a vessel for more than ~~thirty~~ twenty (~~30~~20) minutes ~~at any area where the dock is painted red~~ along any launch docks.
 - b. Unless otherwise restricted by this section, vessels may be moored, in designated slips, at the south end of Third Street, other than those designated as 20-minute zones or for use by official city vessels only, without a moorage fee, for up to six (6) hours between the hours of eight o'clock (8:00) A.M. and ten o'clock (10:00) P.M.
 - c. Unless otherwise restricted by this section, vessels may be moored at the docks between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. provided that a fifteen dollar (\$15.00) per night moorage fee is paid.
 - d. No vessel may be moored at any time between ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. for more than two (2) consecutive nights.
 - e. No vessel may be moored at any bay of any dock if the vessel's length exceeds the length of the bay.
 - g. No barbecuing, open flames, smoking, or open containers of alcoholic beverages shall be allowed at any time upon any of the docks.

SECTION 5. That Coeur d'Alene Municipal Code Section 15.24.220, is hereby amended to read as follows:

15.24.220: FREESTANDING SIGNAGE SIZE ALLOWANCE TABLE: per street frontage

SIGN SIZE FORMULA •••	A x	B x	C	=	+D	TOTAL FOOTAGE FREE-STANDING SIGNS ALLOWED	MAXIMUM AREA PER SIGN Square ft	MINIMUM DISTANCE BETWEEN SIGNS Lineal feet	MAXIMUM SIGN HEIGHT FROM GRADE Lineal feet
<u>ZONE</u>	DRIVING LANE FACTOR FROM CHART F BELOW	STREET FRONTAGE	DENSITY FACTOR		SIGN AREA FACTOR	TOTAL SQUARE FOOTAGE FREE-STANDING SIGNS	*****	*****	*****
Residential R-1 through R-12			.05		2		2	100	10
Multi-Family R-17 through R- 3834			.05		6		12	100	12
Mobile Home MH-8, <u>NC</u>			.08		16		32	250	12
Residential Civic Use, <u>CC</u>			.15		16		60	250	16
Commercial C-17, C-17L			.25		32		100	100	30
Commercial Hwy 95 Frontage			.25		32		160	150	30
Commercial I-90 Frontage			.25		32		160	150	50
Manufacturing M, ML			.25		32		100	100	30
Navigable Waterway NW			.25		32		64	250	30
Example:									
Commercial C-17 4 lanes 200 ft frontage ••	1.75 From Chart F below	200 X lineal street frontage feet	.25 = zoning of property fm above row		+ 32 = fm zone above	119.50 sq ft equals 120 sq feet of freestanding signage	100 sq ft maximum per sign	100 ft distance	30 ft maximum

DRIVING LANES-DEFINITION	CHART F	DRIVING LANE FACTORS
The number of through traffic lanes at the sign	LANES 1 - 2	FACTOR 1.00
location (excludes turning, parking, cycling and pedestrian lanes)	3	1.50
	4	1.75
	5+	2.00

SECTION 6. *That Coeur d'Alene Municipal Code Section 15.24.320, is hereby amended to read as follows:*

15.24.320: REMOVAL OF DANGEROUS SIGNS WITHOUT NOTICE:

No sign shall be erected or maintained in any manner which will create a hazard or risk to the safety of motor vehicle or pedestrian traffic. ~~No such sign may be erected or maintained over public rights of way. The Building Official shall notify the permit holder at any time w~~When, in the judgment of the Building Official, a sign has been erected or maintained in a manner that creates an imminent hazard or risk to safety, the Building Official may remove the sign immediately with or without notice to the permit holder or business manager. If the sign has been erected or maintained in a manner that creates a hazard or risk to safety that is not imminent, the Building Official will provide notice to the permit holder at the address on the permit application notifying the permit holder of the hazard and providing a date by which the sign must be repaired or replaced. If the sign is not repaired or replaced by the date given, the Building Official may remove the sign. The Building Official may dispose of the sign if the permit holder has not claimed the sign and reimbursed the City for the removal costs within 30 days of the signs removal. ~~is created. If the sign erection or maintenance is not thereafter corrected or if such hazard or risk to safety occurs again, the Building Official shall have the power to remove the sign or signs and confiscate or destroy the same.~~

SECTION 7. *That Coeur d'Alene Municipal Code Section 15.24.480, is hereby amended to read as follows:*

15.24.480: SIGNS AS PART OF MERCHANDISE ~~PROHIBITED:~~

Any sign that is combined with, or can otherwise be taken as part of, any merchandise for sale must meet all of the regulations for signs.

SECTION 8. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 9. 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 10. 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 11. 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.

APPROVED, ADOPTED and SIGNED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Various Housekeeping Amendments to the Municipal Code

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTIONS 2.82.010 TO DELETE REFERENCE TO STAGGERING TERMS FOR THE PEDESTRIAN AND BICYCLE ADVISORY COMMITTEE MEMBERSHIP AS IT WAS ESTABLISHED IN 2004; SECTION 8.12.030 TO CLARIFY FIREWORKS STAND PERMITTED OPERATION DATES AND TIMES; SECTION 8.12.040 TO REPEAL SECTION "C"; SECTION 8.24.060 TO AMEND MOORING TIMES AND AREAS; SECTION 15.24.220 TO CORRECT A CLERICAL ERROR BY CHANGING R-38 TO R-34 AND ADDING NEIGHBORHOOD COMMERCIAL AND COMMUNITY COMMERCIAL ZONING DISTRICTS; SECTION 15.24.320 TO CLARIFY THE REMOVAL OF DANGEROUS SIGNS WITHOUT NOTICE; SECTION 15.24.480 TO DELETE THE WORD 'PROHIBITED' FROM THE TITLE; 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. _____ 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. _____, Various Housekeeping Amendments to the Municipal Code, 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 4th day of September, 2007.

Warren J. Wilson, Chief Deputy City Attorney

**PARKS & RECREATION COMMISSION
STAFF REPORT**

Date: August 13, 2007

From: Doug Eastwood, Parks Director

SUBJECT: REQUEST TO PROHIBIT SWIMMING AT POND AT RIVESTONE

DECISION POINT:

We received a request from SRM Development to prohibit swimming in the pond at the Riverstone Park. After discussion with SRM staff recommends implementing a 'no swimming' ordinance at the pond at Riverstone Park.

HISTORY:

The developer (SRM) set aside 5 acres for a passive use park and 6 acres for a pond. The City now owns the 5 acres park, the developer and Homeowners Association owns the 6 acre pond. The pond was installed for irrigation purposes and aesthetics. There are cables, aquatic vegetation, and conduit in the pond and it was not designed or built for swimming.

FINANCIAL ANALYSIS:

The Parks Department will assist SRM with the installation of regulatory buoys on the pond. The Police Department has not had the opportunity to evaluate enforcement. Preliminary discussion indicated there may be a possibility of extending the route of the bike patrol and the trail ambassadors. There also may not be any need for enforcement once the regulatory buoys and signs are installed; compliance will likely be 90 plus %.

PERFORMANCE ANALYSIS:

The pond was designed and built for irrigation and aesthetics. We are leaving the agreement somewhat open between SRM and the City with regard to aquatic use on the pond. We need to evaluate use requests as they appear to determine if a specific use is or is not compatible with the pond and the park. By agreement, SRM and the City will confer on uses and make that determination. For example; fishing is not allowed due to the equipment in the pond and the type of uses in the park which might make that activity non-compatible with other park uses. The park is too new to allow any and all types of use, we prefer to get a few seasons in and see what evolves over time and what will be a good mix of uses.

DECISION POINT:

Recommend to City Council to establish a 'no swimming' ordinance at the Riverstone Pond. Ordinance number 8.25.050 would include a new sub-section addressing this request.

COUNCIL BILL NO. 07-1033
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 8.24.050 TO PROHIBIT SWIMMING & WADING IN THE POND AT RIVERSTONE PARK AND SECTION 10.40.030 TO PROHIBIT TOY VEHICLES AT CHERRY HILL PARK; 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 recommendation by the Parks & Recreation Commission and General Services Committee, 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 8.24.050, is hereby amended to read as follows:*

8.24.050 NO SWIMMING AND DIVING AREAS

1. **No Swimming Areas.** No person shall swim or wade in the following areas:
 - a. Within one hundred feet (100') of the First Street dock.
 - b. Within one hundred feet (100') of the Third Street docks.
 - c. Within one hundred feet (100') of the outside of the Mill River Park dock.
 - d. To or from the City Commercial docks located at Independence Point.
 - e. In pond located in Riverstone Park.

2. **No Diving Areas.** No person shall somersault, dive, flip, jump, or enter into the water by any means other than wading from the following areas:
 - a. The concrete steps or within twenty feet (20') of the concrete steps that surround Independence Point;
 - b. The city docks, ramps, pilings, and seawall located at the south end of Third Street;
 - c. The city docks located at the south end of First Street;
 - d. The ramps, bridge, railing, light posts, signposts, pilings, or any other structures leading to or located upon the Independence Point docks;
 - e. The Independence Point docks.

SECTION 2. *That Coeur d'Alene Municipal Code Section 10.40.030, is hereby amended to read as follows:*

10.40.030: BICYCLES AND TOY VEHICLES:

A. Prohibited Acts: It shall be unlawful for any person:

1. To ride or operate or cause to be operated a bicycle on the sidewalk along Sherman Avenue between First Street and Sixth Street. No person shall ride or operate or cause to be operated a bicycle on a sidewalk from the south side of the sidewalk right of way on Lakeside Avenue to the north side of the sidewalk right of way on Front Avenue from First Street to Sixth Street unless to cross such sidewalk into an alleyway, a private drive, or to enter a crosswalk.

2. Bicycles shall not be parked in such a manner as to obstruct or impede the movement of pedestrians, motor vehicles, or other bicycles, or to cause damage to trees, shrubs, other plants, or other property.

3. No person shall ride or operate a skateboard, roller skates, in-line skates, human powered scooter, or other toy vehicle on the streets, highways, or sidewalks in the area set forth in subsection A1 of this section nor shall any person ride or operate a toy or wheeled vehicle except wheelchairs being used to transport physically impaired persons on the bandshell in City park, nor shall skateboards be ridden or operated in Veterans' memorial park or at the Veterans' memorial as the same are described below. Veterans' memorial is located near the southeast corner of the intersection of Third Street and Front Avenue. Veterans' memorial park is located westerly of the Fourth Street parking lot and southerly of the southwesterly corner of the intersection of Third Street and Front Avenue.

[4. Toy vehicles, including remote control vehicles, are prohibited at Cherry Hill park.](#)

[45.](#) Nothing in this section shall prohibit the mayor and/or city council from allowing bicycle, skateboard, or other exhibits or demonstrations by permit or other ordinance.

[56.](#) A violation of any of the above subsections shall constitute an infraction which shall be punished only by a penalty established by state law, Idaho Code section 49-1503.

B. Bicycles Prohibited On Tubbs Hill: No person shall drive or operate a bicycle on any portion of Tubbs Hill owned or leased by the city of Coeur d'Alene.

C. City Park Slab: No person shall ride or operate or cause to be operated a bicycle, skateboard, roller skates, a human powered scooter, or other toy vehicle in violation of section 5.18.080 of this code.

D. Bicycles Prohibited On Memorial Field Skateboard Park: No person shall drive or operate a bicycle on any portion of "Memorial Field skateboard park" as defined by section 1.29.037 of this code except bicycles shall be allowed on the asphalt slab directly adjacent to the skate park.

SECTION 3. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. 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 5. 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 6. 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.

APPROVED, ADOPTED and SIGNED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending Municipal Code Sections
8.25.025 No Swimming and Diving Areas
and
10.40.030 Bicycles and Toy Vehicles

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 8.24.050 TO PROHIBIT SWIMMING AND WADING IN THE POND AT RIVERSTONE PARK AND SECTION 10.40.030 TO PROHIBIT TOY VEHICLES AT CHERRY HILL PARK; 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. _____ 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 Chief Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending Municipal Code Sections 8.25.025 No Swimming and Diving Areas and 10.40.030 Bicycles and Toy Vehicles, 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 4th day of September, 2007.

Warren J. Wilson, Chief Deputy City Attorney

August 27, 2007
PUBLIC WORKS COMMITTEE
MINUTES

COMMITTEE MEMBERS PRESENT

Council Member Mike Kennedy
Council Member Woody McEvers

CITIZENS PRESENT

Jack & Electa Russell, Item #4
Kent & Tracy Phelps, Item #6
Shawn McMahan, Item #4
Monte Miller, Item #4
Dick Stauffer, Item #4
Doug Busko
Anneke Connaway, Item #3

STAFF PRESENT

Warren Wilson, Chief Deputy City Attorney
Sid Fredrickson, Wastewater Supt.
Amy Ferguson, Committee Liaison
Chris Bates, Engineering Proj. Mgr.
Dave Shults, Capital Program Manager
Gordon Dobler, Engineering Svcs Dir.
Mike Gridley, City Attorney
Jim Markley, Water Supt.
Karen Haskew, Urban Forester

Item 1 WWTP – Change Order #10 for Polymer Equipment Replacement
Consent Calendar

Sid Fredrickson, Wastewater Superintendent, and Dave Shults, Capital Program Manager, presented a request for approval of Change Order 10, for an increased cost of \$6,564.00 to the City's agreement with Contractor's Northwest, Inc. for a total construction contract amount of \$11,799,369; of which \$67,260.00 is for installation of the City's prepurchased polymer equipment. Mr. Shults' staff report indicated that the City previously approved Change Order #9 to allow the WWTP Phase 4B contractor, Contractors Northwest, to assist with the installation of the replacement polymer equipment purchased by the Wastewater Department after the Phase 4B work was done. Funding for the polymer equipment replacements costs is from the wastewater utility's equipment replacement reserve fund. During the installation work, Contractors Northwest and its subcontractors incurred additional costs in the amount of \$6,564.00, which reflects the additional time that was spent working through issues related to late and incomplete delivery of the city-purchased equipment from Siemens Water Technologies, rework of some of the equipment components, and for the minor addition of piping and electrical work that was necessary to complete the design. Mr. Fredrickson commented that Siemens plans to take responsibility for most of the additional costs incurred by reducing the base cost of the equipment.

MOTION: RECOMMEND Council approval of Resolution No. 07-___ approving Change Order #10 in the amount of \$6,564.00 to the City's agreement with Contractor's Northwest, Inc., for a total construction contract amount of \$11,799,369; of which \$67,260.00 is for installation of the City's prepurchased polymer equipment.

Item 2 Request to Review the City's policy on Water Service Outside City Limits

Jim Markley, Water Superintendent, presented a request from Kent and Tracy Phelps to amend the policy on new water services outside City limits. Mr. Markley indicated that the current policy was adopted to help limit the number of connections outside City limits to those who had a "right" to water service or in limited situations where an existing residence has a failing water supply that cannot be readily repaired (the "good neighbor" provision). After review of Mr. and Mrs. Phelps' request and the current water policy, staff has determined that the request does not meet the requirements of the water policy. As a result, the Phelps' have asked that the policy be amended in some manner that would allow them to receive water service. Mr. Phelps confirmed that the water service requested would be for a second home

on his parcel of land. Mr. Wilson indicated that the “good neighbor” policy is for a single family residence. Since the Phelps already have one home on the city water system, the City would have to amend the water policy to do what is requested by the Phelps. The staff report states that there are protections built into the policy to perfect the integrity of the service that is provided to existing residents and customers. Those requirements protect the integrity of the City’s water system as well as insure that those who want to benefit from City services pay their share of the costs associated with providing those services. As a result, the staff report recommended that the Council deny the Phelps’ request and amend the policy to make it clear that the “good neighbor” provision does not apply to situations where the owner created the problem.

MOTION: NO MOTION. This item will be placed on the September 4th Council Meeting Agenda as a discussion item under Public Works Committee.

Item 3 V-07-2 – Vacation of a Portion of Excess Seltice Way Right-of-Way Adjoining the Southerly Boundary of the Coeur d’Alene Honda Auto Dealership
Consent Calendar

Chris Bates, Engineering Project Manager, presented a request from Coeur d’Alene Honda for the vacation of thirty (30’) of excess right-of-way along their property frontage on Seltice Way. Mr. Bates explained that the applicant desires to enlarge the auto sales operation on the subject property and construct a new automobile sales facility on the westerly portion of their site. Further, the new site plan relocates the points of ingress and egress and, at the same time, lowers the site to present a more visual picture from the roadway. Relocation of the center access point directly impacts the two westerly pine trees and would result in their removal.

Karen Haskew, Urban Forester, stated that Seltice Way has been identified by the Urban Forestry Committee as a corridor where retention and planting of native species should be encouraged. If the trees are removed, the Urban Forestry Committee would like to see potentially big trees replanted, even though it might take them a long time to grow back to the size of the current trees. Ms. Haskew stated that she has spoken to the site designer and CDA Honda and they are open to planting as many evergreen trees as they can. The Urban Forestry Committee would like to see an equal diameter planting or a contribution to the reforestation fund. Discussion ensued regarding the location of the right-of-way and the effect that it could have on the trees, including where the power lines might be installed. Mr. Dobler stated that the request for removal of trees would probably go before the Urban Forestry Committee later when they get to the construction phase. Ms. Connaway pointed out that in 2003 CDA Honda removed four similar-sized trees from the right-of-way without obtaining a permit. Mr. Bates reminded the committee that state laws indicate that you cannot attach any requirements or conditions to a vacation – you either vacate or you don’t; however City code says that when you remove a tree, you have to replace it.

MOTION: RECOMMEND Council direct staff to proceed with the vacation process and set a public hearing before the City Council for October 2, 2007.

Item 4 No Parking Zone – Front Street
Consent Calendar

Gordon Dobler, Engineering Services Director, presented a request for Council approval to establish a “No Parking Zone” on Front Street adjacent to McEuen Terrace. Mr. Dobler stated in his staff report that the City has received a request by one of its residents to establish a no parking zone on either side of the western driveway entrance to the McEuen Terrace building. An evaluation of the conditions indicated that the driveway is coming up from the parking garage and when the residents are leaving the garage visibility in both directions is extremely limited when cars are parking adjacent to the driveway because

the vehicles are lower than they normally would be. Mr. Dobler also stated that the volume of traffic on Front Street creates an issue for visibility. He would recommend a total of three vehicle spaces be designated as “no parking”, one on the west side of the driveway, and two on the east side of the driveway.

Mr. Jack Russell of the McEuen Terrace Homeowners Association stated that he concurred with Mr. Dobler’s recommendation in that it is a dangerous situation for both the people coming out of the garage, and also for oncoming traffic. Mr. Sean McMahon agreed that he would like it to be safe, but at the same time the parking in the downtown area is an issue. He explained that it wasn’t an issue until the reconfiguration of the streets and the construction of the new library. He requested that some parking be put back on the south side of Front Street for the businesses and residents of McEuen Terrace. Ms. Ferguson mentioned that the issue of parking at the new library was going to be discussed at the upcoming Parking Commission meeting on Tuesday, September 4th, at 3:00 p.m., in Council Chambers.

Mr. Monte Miller suggested the possible use of “fisheye” mirrors on the traffic posts at the curb line which would allow the residents to see the oncoming traffic. Mr. Dobler explained that there are specific requirements that need to be met and there the use of “fisheye” mirrors are not addressed in the regulations he is required to follow.

Mr. Stauffer stated that he would like to see the “no parking” area be the minimum size required so as to retain as much parking as possible. Mr. Miller also suggested that perhaps the speed limit on Front Street could be reduced due to the traffic in the area. He also expressed concerned regarding the reduction of parking spaces on the street due to the new library construction.

Mr. Dobler indicated that he would review the recommendation for the “no parking zone” and make sure that it is as small as possible.

MOTION: RECOMMEND Council approval of Resolution No. 07-___ establishing a “No Parking Zone” on the north side of Front Street from 7th Street approximately 120 feet easterly.

**Item 5 Annexation Agreement with SMS Investments
Consent Calendar**

Warren Wilson, Chief Deputy City Attorney, presented a request for approval of an Annexation Agreement with SMS Investments, LLC, for property located near the Coeur d’Alene Place and Ramsey Cove subdivisions between Ramsey and Atlas roads. Mr. Wilson stated that SMS Investments has preliminary plat approval for a 21 lot subdivision and is currently finalizing the final plat with 20 lots. Mr. Wilson further indicated that there were no recommendations from the Planning Commission or the City Council and there was nothing out of the ordinary in regard to this annexation agreement.

MOTION: RECOMMEND Council approval of Resolution No. 07-___ authorizing the City of Coeur d’Alene to enter into an Annexation Agreement with SMS Investments, LLC for property located near the Coeur d’Alene Place and Ramsey Cove subdivisions between Ramsey and Atlas roads.

**Item 6 RR Crossing Agreement with BNSF
Consent Calendar**

Mike Gridley, City Attorney, presented a request for the City to enter into a public crossing agreement with Burlington Northern Santa Fe Railroad to allow construction of a public crossing in the Atlas Mill site when the property is annexed into the city. Mr. Gridley explained that Black Rock and Stimson

Lumber cannot close on the sale of the Atlas Mill property until there is an agreement in place that will allow for construction of a permanent public crossing. He further stated that there should be no financial impact on the city and that the reality is that it is unlikely that the crossing will ever be required to be built since the agreement is structured so that the public crossing will not be constructed until after the railroad has taken the rail line out of service. The main purpose of this agreement is to facilitate the seller and purchaser closing on the sale of the Atlas Mill site so that it can then be annexed into the city.

MOTION: RECOMMEND Council Approval of Resolution No. 07-___ authorizing the City of Coeur d'Alene to enter into a public crossing agreement with Burling Northern Santa Fe Railroad to allow for construction of a public crossing in the Atlas Mill site when the property is annexed into the city.

The meeting adjourned at 5:25 p.m.

Respectfully submitted,

Amy C. Ferguson
Public Works Committee Liaison

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: August 27, 2007

FROM: Jim Markley, Water Superintendent
Warren Wilson, Chief Deputy City Attorney

SUBJECT: Request to Review the Water Service Outside City Limits Policy

DECISION POINT:

Hear the request by Kent and Tracy Phelps to amend the water service outside City limits policy and determine if it should be amended.

HISTORY:

In the early 1980's the City adopted a policy regarding the provision of water service outside City limits. That policy was the subject of near continuous dispute including one case that was ultimately decided by the Idaho Supreme Court. As development increased in our area so did the requests for water service outside City limits leading to a revised policy that was adopted in early 2006 (a copy is attached for your convenience). Kent and Tracy Phelps requested water service for a parcel of land that they own at 1894 N. Johnson Road, which is outside City limits. Staff has reviewed this request and it does not meet the requirements of our policy. The Phelps' have asked that the policy be amended in some manner that would allow them to receive water service.

FINANCIAL ANALYSIS:

The current policy was adopted to help limit the number of connections outside City limits to those who had a "right" to water service or in limited situations where an existing residence has a failing water supply that cannot be readily repaired (the "good neighbor" provision). In addition there are protections built into the policy to perfect the integrity of the service we provide to our existing residents and customers. Amending the policy in a manner that makes it easier to obtain water service outside of City limits would increase the City's expenses for providing service to our existing customers and residents especially in this area where the level of service currently provided is only adequate.

PERFORMANCE / QUALITY OF LIFE ANALYSIS:

Under the current policy, before a property outside City limits can receive water service it must annex if it is contiguous to the City limits. If the property cannot satisfy the annexation requirement, the owner needs to establish that their property is in one of the subdivisions that paid for the water main installation, that their property is currently being served by a failing water service that can't be readily repaired or that they (or a predecessor in interest) contributed financially to the installation of the water main. There are also limits on the size of the connection and restrictions to protect the integrity of the system. These requirements protect the integrity of our system as well as insuring that those who want to benefit from City services pay their share of the costs associated with providing those services.

Allowing additional connections beyond what the policy currently allows may well return us to the situation that existed until last spring when a party could obtain water simply by owning property abutting a main, which is the reason Council chose to amend the policy. If the policy is to be amended at all, staff recommends that it be amended to make it clear that the “good neighbor” provision cannot be used to solve a self inflicted problem.

DECISION POINT/RECOMMENDATION:

Recommend that the Council deny the Phelps’ request and only amend the policy to make it clear that the “good neighbor” provision does not apply to situations where the owner created the problem.

POLICY: WATER SERVICE OUTSIDE CITY LIMITS

Goals:

To the extent possible it is the intention of this policy to:

- Limit new water service outside City limits to those properties that have a grandfathered/vested right to water service created by, monetary participation by the owner or a predecessor in interest, in construction of the main that would provide service to the property.
- Require qualifying properties to annex if possible or require the owner to consent to future annexation.
- Limit those properties outside City limits qualifying for water service to one residential (single family residence, ¾" meter) hook up for each parcel/lot existing at the time the property qualified to receive water service.
- Ensure the integrity of City boundaries.
- Minimize expenses for the City Water Dept. in upgrading facilities solely serving properties outside City limits.
- Ensure that the quality and quantity of City water service for City residents is not diminished by providing new water service outside City limits.
- Require the party seeking service to establish a right to the service.

Policy:

1. Annexation. A party seeking water service for a parcel outside City limits must annex into the City prior to receiving water service if the parcel is contiguous to the City limits. The party seeking annexation is responsible for all costs and fees associated with the annexation of their parcel.
2. Service Outside City Limits: If the party seeking water service cannot satisfy the annexation requirement, the party may be entitled to one residential hook up for a single family residence (¾ inch meter) if they can prove by a preponderance of the evidence that they meet all of the following conditions as well as one of the exceptions listed below in section 3:
 - A. The parcel or lot abuts a city water service main to which another service line can reasonably be connected; and
 - B. The City's water service to other customers will not be reduced below adopted standards if the requested water service is provided; and
 - C. The property owner signs an agreement consenting to subsequent annexation by the City at the City's discretion; and

D. The property owner agrees, in writing, to convey, without cost, all water rights attached to the parcel to the City upon request.

3. Exceptions: If the party seeking water service meets the conditions in section 2 above, they may be entitled to water service if they can prove by a preponderance of the evidence that they meet one of the following exceptions:

A. Approved Subdivisions: Each originally platted lot in the following subdivisions is entitled to one residential (3/4" meter) connection. If the lot, as originally platted has been further subdivided, the connection will be given to the first party who seeks service and meets the requirements of this policy.

- i. Approved Subdivision list:
 - a. Ponderosa Park.
 - b. Ponderosa Terrace.
 - c. Springview Terrace 1st addition.
 - d. Les James Subdivision.
 - e. Sky Blue Acres.
 - f. Aqua Terrace.
 - g. Nob Hill.
 - h. Rivercal Subdivision.
 - i. Morse Subdivision.
 - j. Stanley Hill Terrace.

B. Existing Residence with Failing Water Service: The owner of a parcel with an existing residence will be allowed one residential connection (3/4" meter) if the owner can prove by a preponderance of the evidence that the parcel's current water service is failing for reasons outside the parcel owner's control and there is no reasonable cost effective alternative to seeking City water service.

C. Other Qualifying Parcels: Owners of parcels not meeting any of the other exceptions listed in this section may be allowed one residential connection (3/4" meter) if they can prove, by a preponderance of the evidence, that the parcel for which service is being sought has a grandfathered right to water service. In order to establish that the parcel has a grandfathered right the owner must establish that the City or one of its predecessors specifically agreed, in writing, to provide water service to the parcel. This may be established by showing that the developer of the lot had a written agreement with the City or its predecessor to provide water to the lot in question or by establishing that the developer of the lot participated in the funding of the water main extension to the lot. It is not sufficient to merely establish that the lot is within an area where service would have been provided by the City under a previous policy or by one of its predecessors.

July 3, 2007

City of Coeur d'Alene Water Department
3820 Ramsey Road
Coeur d'Alene, ID 83815

Dear Jim Markley, P.E.

This letter is to request city water service on a legal parcel located at 1894 N. Johnson Road, Coeur d'Alene, ID 83814. (This property is located in the county directly across from the Les James Addition housing development.)

We purchased the property in December of 2005. When we purchased the property our Deed of Trust indicated two parcels. The previous owner (Ulvan) had joined the two parcels together for tax purposes. In February of 2007 we separated our lot back into two legal parcels. This was done recently a separate APN is pending.

This parcel has been approved to build on by Kootenai County Planning and Panhandle Health issued an approved report based on an onsite sewage evaluation, May 14, 2007.

We contacted the Coeur d'Alene Water Department and spoke with you about acquiring city water for this parcel. We were informed the city had updated the water policy for service outside the city limits. Apparently, the previous owner of 1894 N. Johnson Road. sued the city to acquire city water and an agreement was made to provide him and a number of other surrounding properties with city water. The updated water policy to acquire city water, was written after this lawsuit, and appears to be in response to what took place with the residents on Johnson Road.

We proceeded to call H2O well drilling company to inquire about drilling a well. We were informed that there are 10 wells in a 1 square mile of our property and out of these ten wells there is only one functioning well left. Productive wells are hard to come by in this area, as shown on the Idaho Department of Water Resources list. H2O quoted the cost of drilling a 300 foot well on the parcel could range between \$8,000 up to \$17,000 with no guarantee of water.

Researching further into how the previous owner had acquired city water, we discovered the previous owner had a shared well with a neighbor (Nelsons – lot # 14157). This well was shared by two households and was slowly failing; the well was drilled to 700 feet and was only producing 2.5 gallons per minute. In consideration for city water the city required the neighbor (Nelsons) to deed his water rights to the city as part of his connection agreement. The previous owner (Ulvan) of our property was not required to sign away his water rights to the city to obtain his water connection. The neighbor's deed indicates that we have an easement for ½ interest in the well on their property.

Per the Policy: Water Service Outside City Limits, section 3. B. 'Existing Residence with Failing Water Service'; the failing well (as mentioned above) is outside our control and there is no reasonable cost effective alternative to seeking City water services. With that being said, we could essentially resurrect the failing well on the neighbors property that we have ½ interest in, construct the dwelling on the property and then return to the City to request service. Based on your own Policy, the parcel would meet the requirements to receive a water connection. We are willing to deed our ½ interest in the well to the city (who has the other ½ interest) and receive a city water connection for the parcel in question. We are also willing to pay the standard city water connection fee.

It appears that every home in the surrounding area is hooked into the city water system. All these homes are outside the city limits. In addition there are currently lots for sale within a square mile of our property that have been granted permission from the city for a water connection. Considering the fact that our current home already has city water, and the parcel in question is contiguous it would require very little effort to actually hook into the system to acquire city water.

Thank you for your consideration in this matter.

Sincerely,



Kent and Tracy Phelps

(208) 665-2012 home
(208) 755-7366 Kent cell

Please refer to attached documentation for specific details of Lot and reports as mentioned in this letter.

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: August 21, 2007

FROM: Warren Wilson, Chief Deputy City Attorney

SUBJECT: Approval of Annexation Agreement with SMS Investments, LLC.

DECISION POINT:

Approve the Annexation Agreement with SMS Investments, LLC.

HISTORY:

On March 20, 2007, the City Council approved the annexation of the subject property, which is located near the Coeur d'Alene Place and Ramsey Cove subdivisions between Ramsey and Atlas roads. SMS Investments has preliminary plat approval for a 21 lot subdivision and are currently finalizing the final plat with 20 lots.

FINANCIAL ANALYSIS:

The annexation fee policy allows the annexation fee to be based on the number of lots in an approved subdivision. As noted above, SMS Investments is in the process of obtaining final plat approval for 20 lots. So the annexation fee for this annexation is \$15,000.00 (\$750 x 20 lots). Additionally, the agreement requires SMS Investments to pay \$1,208.97 to upsize a stretch of sewer main downstream from its development, which represents its share of the cost necessary to upsize the main to handle the effluent from this project. Finally, the City is reimbursed for staff time necessary in preparing this agreement.

PERFORMANCE / QUALITY OF LIFE ANALYSIS:

This parcel sits within the City's area of City impact and is becoming surrounded by other approved residential subdivisions. As such, completion of this annexation is in the City's best interest. Annexation of this parcel presents relatively few obstacles for the City given its location and the status of public utilities in this area. The annexation agreement does address the manner in which utility services must be extended to service the parcel along with a setting out the standards that will be applicable for this development.

DECISION POINT/RECOMMENDATION:

Approve the Annexation Agreement with SMS Investments, LLC.

RESOLUTION NO. 07-057

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN ANNEXATION AGREEMENT WITH SMA INVESTMENTS, LLC.

WHEREAS, an annexation agreement has been negotiated between the City of Coeur d'Alene and SMS Investments, LLC, pursuant to the terms and conditions set forth in said agreement, a copy of which is attached hereto as exhibit "1" and by this reference made a part hereof; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreement; NOW, THEREFORE,

BE IT RESOLVED, that the City enter into an Annexation Agreement with SMS Investments, LLC in substantially the form attached hereto as Exhibit "A" and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said Annexation Agreement to the extent the substantive provisions of the agreement remain intact.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such agreement on behalf of the City of Coeur d'Alene.

DATED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER HASSELL Voted _____

COUNCIL MEMBER REID Voted _____

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER GOODLANDER Voted _____

_____ was absent. Motion _____.

ANNEXATION AGREEMENT

THIS AGREEMENT, made and dated this 4th day of September, 2007, by and between the **City of Coeur d'Alene**, a municipal corporation organized pursuant to the laws of the state of Idaho, hereinafter referred to as the "City," and **SMS Investments, LLC**, an Idaho an Idaho corporation with its principal place of business at 609 Calgary Court, Suite 2, Post Falls, ID 83854, (the "Owner").

WITNESSETH:

WHEREAS, Owner owns a parcel of land ("the Property") adjacent to the City limits that it wishes to develop, and the Owner has applied for annexation to the City. The Property is more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference; and

WHEREAS, the Mayor and City Council of the City have determined that it would be in the best interests of the City and the citizens thereof to annex the Property subject to the Owner performing the conditions hereinafter set forth; NOW, THEREFORE,

IN CONSIDERATION of the covenants and conditions set forth herein, the parties agree as follows:

ARTICLE I: LEGAL DESCRIPTION

1.1. Property Description: The Property, more commonly known as the "Provence 20" subdivision, is an approximately 4.96 acre parcel located south of Prairie Avenue, between Ramsey and Atlas Roads. The legal description for the Property is attached hereto as Exhibit "A".

ARTICLE II: STANDARDS

2.1. Applicable Standards: The Owners agrees that all laws, standards, policies and procedures regarding public improvement construction that the Owners are required to comply with or otherwise meet pursuant to this agreement or City codes shall be those in effect at the time of construction drawings approval. The Owner further waives any right the Owner may have regarding the date used to determine what public improvements; construction laws, standards, policies and procedures shall apply.

ARTICLE III. UTILITIES

3.1. Water and Sewer: The Owner agrees to use the City's sanitary sewer systems for this development. The Owner further agrees to adhere to the terms of the Water Service Agreement between the City and the Hayden Lake Irrigation District, adopted by Resolution 03-

060, dated June 17th, 2003, or the version in effect at date of approval of the construction drawings.

3.2. Garbage Collection: Upon expiration of any existing garbage hauling contract, the Owner agrees to use the garbage collection service in effect within the City of Coeur d'Alene for this new development. The City will identify the garbage collection service to be used.

3.3. Maintenance of Private Sanitary Sewer and Water Lines: City shall not be responsible for maintenance of private sanitary sewer or water lines, if any, including appurtenances, within the Property.

3.4. Public Sewer: In addition to any conditions of approval for the "Provence 20" (initially approved as "Provence 21") subdivision, the Owner will be required to extend the existing sanitary sewer line from its current terminus near the intersection of Ramsey Road and Smith Street to the Property, at no cost to the City. Design and construction of the sewer infrastructure will need to conform to the Northwest Quadrant Sewer Master Plan. Additionally, the existing downstream receiving line was identified in the Coeur d'Alene Sewer Master Plan as needing upsizing in order to achieve build out capacity. Therefore, the Owners will be required to pay to the City on or before the execution of this agreement the amount of One Thousand Two Hundred and Eight Dollars and 97/100 (\$1,208.97), which represents the Owners pro-rata share of the anticipated cost of upsizing the receiving line.

3.5. Street Lights: The Owner agrees to adhere to City policies and standards for street light design and construction.

3.6. Street Trees: The Owner agrees to adhere to City policies and standards for street trees.

ARTICLE IV: PUBLIC IMPROVEMENTS

4.1. Installation of Public Improvements: The Owner agrees that prior to occupancy of the Property, and prior to issuance of any building permits for the Property, the Owner shall, in accordance with City Code, submit plans for approval and construct and install all improvements required by this agreement or by City code including but not limited to sanitary sewer improvements, storm water disposal, water lines, hydrants, monumentation, grading, subbase, paving, curbs, dry utility conduit, street lights and sidewalks. The City shall have no obligation, if any exists, for maintenance of improvements until such time as the City formally accepts the improvements.

4.2. Compliance with Conditions of Approval: The conditions of approval for the subdivision of the Property attached as Exhibit "B" are expressly incorporated into this contract as binding provisions of this contract. As such, the Owner specifically agrees to fulfill each condition of approval, including dedication of rights of way, as if each condition was specifically enumerated in this Agreement.

ARTICLE V: FEES

5.1. Annexation Fees: Owner agrees to provide specific consideration for annexation in the amount of Fifteen Thousand Dollars and no/100 (\$15,000.00). This fee is based upon the formula found in the policy approved by Coeur d'Alene Municipal Resolution 94-059 (\$750 per dwelling unit approved in the "Provence 20" subdivision). The sum specified is deemed by the parties to be a reasonable fee for City benefits and services to the Owner's project, including but not limited to public safety and other services. The Owner will remain responsible for all other costs and fees required by City code. Payment of the annexation fees will be due before the execution of this agreement.

5.2. No Extension of Credit: The parties, after careful consideration of the actual burdens on the City, have agreed to a specific dateline in which those burdens will occur. This section anticipates specific payment at a specific date and is in no manner a loan of services or an extension of credit by the City. The following sum shall be paid upon fulfillment of the conditions precedent set forth below.

5.3. Other Fees: Additionally, the Owner, or successors, shall be responsible for all required fees and charges including but not necessarily limited to water hook-up fee(s), water connection (capitalization) fee(s), sanitary sewer connection (capitalization) fee(s), and building permit fees and any applicable impact fees that may be imposed. Fees referred to in this paragraph, are set forth by Municipal Ordinance and/or resolution and arise independent of this agreement or by the Hayden Lake Irrigation District.

5.4. Owner's Reimbursement to the City: The Parties further agree that the City has utilized substantial staff time to prepare the annexation agreement that will benefit the Owner. Owner agrees to reimburse the City in the amount of Two Hundred Dollars and No/100 (\$200.00), which will be due before the execution of this Agreement.

ARTICLE VI. MISCELLANEOUS

6.1. Subdivision: The parties acknowledge that in the event the Owner desires to sell a portion of the property described in Article I, Section 1, rather than the parcel as a whole, that a short plat may be necessary. Owner agrees that in the event a short plat is necessary, Owner will submit a proper subdivision plat and comply with the subdivision ordinance in effect at the time of the desired division.

6.2. Deannexation: Owner agrees that in the event the Owner fails to comply with the terms of this agreement, defaults, is otherwise in breach of this agreement, the City may deannex and terminate utility services without objection from Owner's, assigns or successors in interest of such portions of Owner's Property as City in its sole discretion decides.

6.3. Owner to Hold the City Harmless: The Owner further agrees they will indemnify, defend and hold the City harmless from any and all causes of action, claims and damages that arise, may arise, or are alleged, as a result of the Owner's tortious use of the Property described in Exhibit "A." Owner further agrees to pay City's legal costs, including reasonable attorney fees in the event this annexation is challenged in a court of law. Payment for City's legal costs will be remitted within thirty (30) days after receipt of invoice from the City for legal expenses.

6.4. Time is of the Essence: Time is of the essence in this agreement.

6.5. Merger: The representations, warranties, covenants, conditions and agreements of the parties contained in the agreement shall survive the acceptance of any deeds and/or easements.

6.7. Recordation: The Owner further agrees this agreement shall be recorded by the City at the Owner's expense. All promises and negotiations of the parties merge into this agreement. Parties agree that this agreement shall only be amended in writing and signed by both parties. The parties agree that this agreement shall not be amended by a change in any law. The parties agree this agreement is not intended to replace any other requirement of City code.

6.7. Section Headings: The section headings of this agreement are for clarity in reading and not intended to limit or expand the contents of the respective sections to which they appertain.

6.8. Compliance With Applicable Laws: The Owner agrees to comply with all applicable laws.

6.9. Covenants Run With Land: The covenants herein contained to be performed by the Owner shall be binding upon the Owner and Owner's heirs, assigns and successors in interest, and shall be deemed to be covenants running with the land. This document shall be recorded at the Kootenai County Recorder's Office at the sole cost of the Owner.

6.10. Publication of Ordinance: The parties agree that until the date of publication of the annexation ordinance, no final annexation of Owner's Property shall occur. Upon proper execution and recordation of this agreement, the City will, to the extent lawfully permitted, adopt and thereafter publish an ordinance annexing Owner's Property.

IN WITNESS WHEREOF, the City of Coeur d'Alene has caused this agreement to be executed by its Mayor and City Clerk, and the Owners have caused the same to be executed the day and year first above written.

CITY OF COEUR D'ALENE

SMS Investments, LLC

By: _____
Sandi Bloem, Mayor

By: _____
James Smith, Managing Member

ATTEST:

Susan K. Weathers, City Clerk

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 4th day of September, 2007, before me, a Notary Public, personally appeared **Sandi Bloem and Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 15th day of August, 2007, before me, a Notary Public, personally appeared **James Smith**, known or identified to me to be a Managing Member of **SMS Investments, LLC** and the person who executed the foregoing instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d'Alene
My Commission Expires: 11/27/08

Client: SMS Investments
Description: Proposed Annexation to City of Coeur d'Alene
Date: August 23, 2007

A tract of land being a portion of the Northeast ¼ of Section 27, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at a found iron rod monumenting the North 1/16 corner of said Section 27 (as shown on the Plat of Coeur d'Alene Place recorded in Book G of Plats at Page 210, records of Kootenai County Idaho) (from which a found aluminum cap monumenting the Northeast Corner of said Section 27 bears North 01°11'45" East a distance of 1,324.41 feet), said point being the REAL POINT OF BEGINNING;

thence along the existing boundary of the City of Coeur d'Alene the following courses and distances:

North 88°11'39" West (North 88°12'09" West, record) a distance of 50.00 feet to the Northeast corner of Lot 1, Block 16 of said Coeur d'Alene Place;
thence along the northerly line of said Lot 1, Block 16 North 88°11'39" West (North 88°12'09" West, record) a distance of 603.03 feet to a point;
thence leaving said northerly line North 01°10'04" East a distance of 20.00 feet to the Southwest corner of Tract 330 of the Amended Plat of Hayden Lake Irrigated Tracts (recorded in Book C of Plats at Page 67, records of Kootenai County, Idaho);
thence along the westerly line of said Tract 330 North 01°10'04" East a distance of 311.08 feet to the Northwest corner of the South ½ of said Tract 330 described in Warranty Deed recorded as Instrument No. 1982895 (records of Kootenai County, Idaho);
thence leaving said city boundary and said westerly line along the northerly line of said South ½ of Tract 330
South 88°11'50" East a distance of 623.19 feet to a point on the westerly right-of-way of Ramsey Road;
thence leaving said northerly line South 88°11'50" East a distance of 80.00 feet to a point on the easterly right-of-way of said Ramsey Road;
thence along said easterly right-of-way South 01°11'45" West a distance of 331.12 feet to a point;
thence leaving said easterly right-of-way along the existing boundary of said City of Coeur d'Alene North 88°11'39" West a distance of 50.00 feet to the REAL POINT OF BEGINNING.

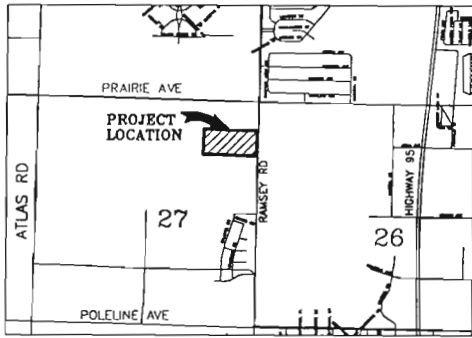
Comprising 5.344 acres, more or less, being subject to all existing easements and rights of way of record or appearing on said tract.



RECORD OF SURVEY AND ANNEXATION MAP

S 1/2 OF TRACT 330, HAYDEN LAKE IRRIGATED TRACTS,
 IN THE NE 1/4 SEC. 27, T.51N., R.4W., B.M.,
 KOOTENAI COUNTY, IDAHO
 CITY OF COEUR D'ALENE ORDINANCE # _____

BOOK _____ PAGE _____
 No. _____
 STATE OF IDAHO
 COUNTY OF KOOTENAI
 AT THE REQUEST OF:
 TATE ENGINEERING, INC.
 At _____ minutes past _____ o'clock _____ M
 Date: _____
 DANIEL J. ENGLISH, RECORDER
 By: _____ Deputy
 Fee \$ _____

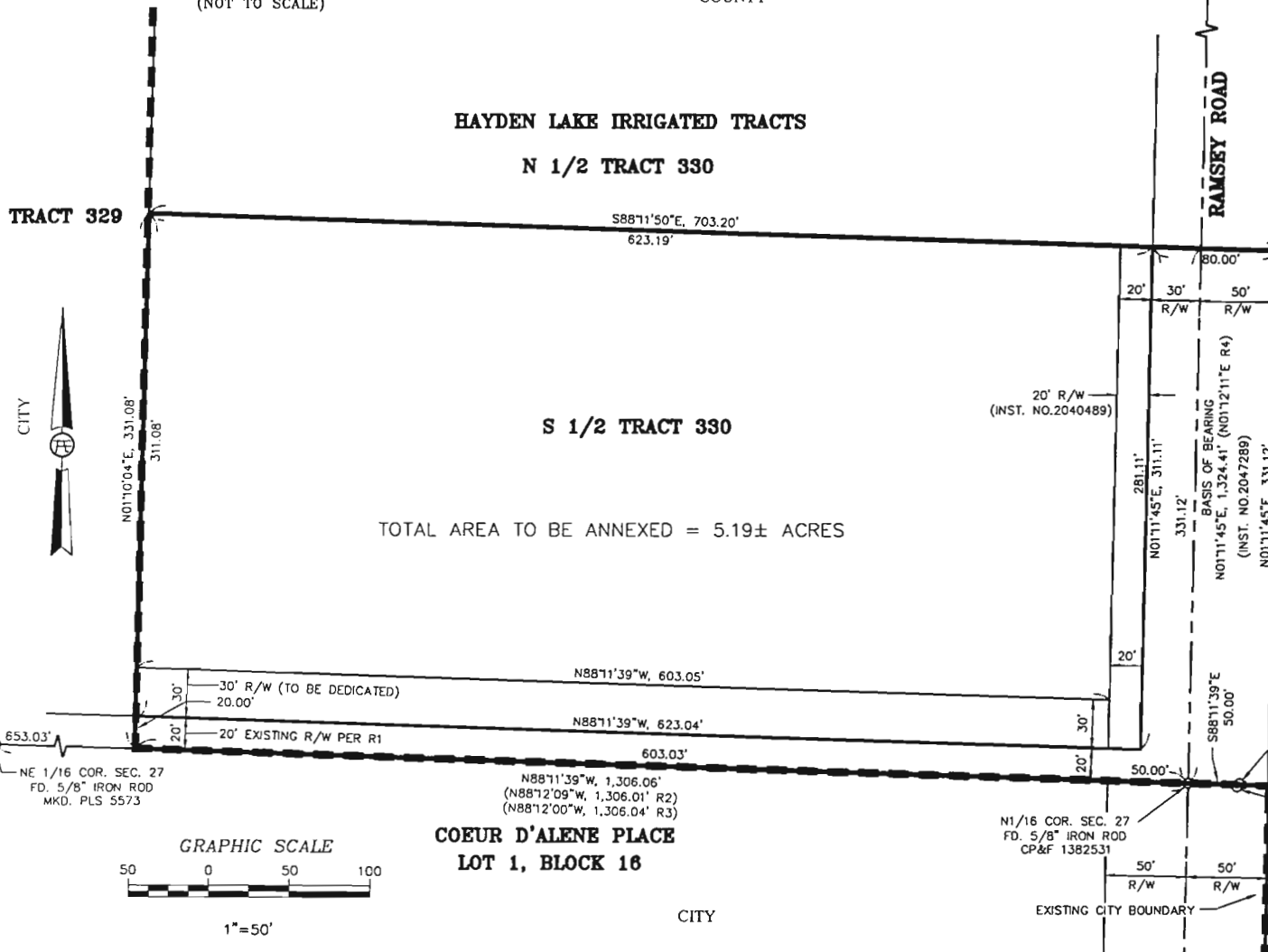


VICINITY MAP
(NOT TO SCALE)

COUNTY

NE COR. SEC. 27
 FD. ALUMINUM CAP
 CP&F 1546936

22 23
 27 28



LEGEND

- FD. 5/8 IN. IRON ROD W/ NO CAP, EXCEPT AS SHOWN
- ⊙ FD. AN IRON PIPE, SIZE AS NOTED
- SET AN IRON ROD, 30 INS. LONG, 5/8 IN. DIAM., WITH A PLASTIC CAP MKD. PLS 4565
- ▬ EXISTING CITY OF COEUR D'ALENE BOUNDARY
- ▬ AREA TO BE ANNEXED
- CALCULATED POINT (NOTHING FOUND OR SET)

SURVEYS OF RECORD & PRIOR SURVEYS

1. AMENDED PLAT OF HAYDEN LAKE IRRIGATED TRACTS - BOOK C, PAGE 67
2. PLAT OF COEUR D'ALENE PLACE - BOOK G, PAGE 210
3. RECORD OF SURVEY - BOOK 11, PAGE 236
4. RECORD OF SURVEY - BOOK 19, PAGE 461

BASIS OF BEARING

BASIS OF BEARING IS ALONG THE EAST LINE OF SECTION 27 FROM THE NE CORNER OF SECTION 27 SOUTH TO THE N 1/16 CORNER. RECORD AND MEASURED N01°11'45", 1324.41 PER RECORD OF SURVEY BY WELCH, COMER AND ASSOC., BOOK 11, PAGE 236.

NOTES

1. THIS RECORD OF SURVEY DOES NOT ATTEMPT TO SHOW ALL EASEMENTS OR RIGHTS-OF-WAY OF RECORD, THE SIZE OR LOCATION OF PREScriptive EASEMENTS, FENCE LINES OR PHYSICAL FEATURES OF THE PROPERTY, ITEMS SUCH AS BUILDINGS AND FENCES WHICH ARE SHOWN, ARE FOR INFORMATIONAL PURPOSES ONLY.

SURVEYORS CERTIFICATE

I, ERNEST M. WARNER, PROFESSIONAL LAND SURVEYOR No. 4565 IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION.

ERNEST M. WARNER, PLS 4565 DATE _____

- FD. 1" IRON PIPE (BENT)
 31.83' EAST OF SECTION LINE
 (32.14' R4)
- FD. 3/4" IRON PIPE
 30.19' EAST OF SECTION LINE
 (30.24' R4)

TATE ENGINEERING
 1103 N. 4TH STREET, COEUR D'ALENE, IDAHO, 83814
 (208) 676-8708 FAX: (208) 687-2129



PROJECT NO.: 06.092	DATE: 12/07/06	SCALE: 1" = 50'	PAGE 1 OF 1
DRAWING: 06092ROS	CHECKED: RMT	DRAWN BY: JAC/SGW	

EXHIBIT "1A"

**COEUR D'ALENE PLANNING COMMISSION
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the Planning Commission on April 10, 2007, and there being present a person requesting approval of ITEM S-6-07 a request for preliminary plat approval of "Provence 21", a 21-lot subdivision in the R-8 (Residential at 8 units/acre) zoning district

APPLICANT: SMS Investments, LLC

LOCATION: +/- 4.96 acre parcel at 7677 North Ramsey Road

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

B1 That the existing land uses are residential – single-family and mobile homes and vacant land

B2 That the Comprehensive Plan Map designation is Transition

B3 That the zoning is R-8 (Residential at 8 units/acre)

B4 That the notice of public hearing was published on March 24, 2007, and April 3, 2007, which fulfills the proper legal requirement.

B5 That the notice was not required to be posted on the property

B6 That 6 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on March 23, 2007, and 1 response was received: 0 in favor, 0 opposed, and 1 neutral

B7 That public testimony was heard on April 10, 2007. The applicant's representative, Rob Tate explained the request and answered questions from the commission.

B8 Pursuant to Section 16.10.030A.1, Preliminary Plats: In order to approve a preliminary plat, the Planning Commission must make the following findings:

B8A. That all of the general preliminary plat requirements have been met as attested to by the City Engineer. This is based on the staff report.

B8B. That the provisions for streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, and utilities are adequate where applicable. This is based on the staff report and testimony from the City Engineer.

B8C. That the preliminary plat is in conformance with the Comprehensive Plan as follows:

4C1: "Development that proposes to increase the density of a given area may be allowed, provided that the increase maintains the character of the community."

The development conforms to the character of the surrounding area

because it is a single-family development with a density that is consistent with existing subdivisions in the area

6A "Promote the orderly development of land use at locations that are compatible with public facilities and adjacent land uses."

The property is in the City service area and meets the City's minimum development requirements for a subdivision.

B8D That the public interest will be served based on the fact that it meets the goals of the Comprehensive Plan, it is orderly growth and there are adequate utilities.

B8E That all of the required engineering elements of the preliminary plat have been met, as attested to by the City Engineer.

This is based on the staff report.

B8F That the lots proposed in the preliminary plat do meet the requirements of the applicable zoning district for the following reasons: All lots meet the zoning ordinance requirements for lot size, lot frontage and density.

B9 That the proposal would not adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character, and existing land uses because there are adequate streets, utilities and it meets the character of the surrounding area.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of SMS INVESTMENTS, LLC, for preliminary plat of approval as described in the application should be approved.

Special conditions applied to the motion are:

Planning

1. A planting screen landscaping plan approved by the Planning Department and installed, prior to final plat approval or, if not installed before final plat approval, a bond or other sufficient security for the planting screen landscaping approved by the city attorney, equal to one hundred fifty percent (150%) of the costs of landscaping, provided by the owner/developer and held by the City until said landscaping is complete.
2. Formation of a home owner's association, approved by the City Attorney, for the purpose of maintaining the planting screen landscaping.

Engineering

3. The sanitary sewer main will be required to be extended from its present location at the intersection of Ramsey Road and Wilbur Avenue to the subject property at no cost to the City. Should the City extend this sanitary main prior to the developer actually doing the work, the City shall be reimbursed by the developer for their pro-rata share of the installation, as determined by the City, prior to final plat approval.
4. Sanitary sewer design will need to conform to the NW Quadrant Sewer Master Plan on file with the City.
5. All water service, furnished by the Hayden Lake Irrigation District (HLID), will need to be designed and installed to HLID and City of Coeur d'Alene standards and be able to meet all required domestic and fire flow capacities.
6. The developer will need to furnish correspondence from the Hayden Lake Irrigation

District to the City, stating that there are sufficient water flows to provide service and

Motion by Rasor, seconded by Bowby, to adopt the foregoing Findings and Order
ROLL CALL

Commissioner Bowby	Voted Aye
Commissioner Messina	Voted Aye
Commissioner Rasor	Voted Aye
Commissioner Souza	Voted Aye

Commissioners George and Jordan were absent

Motion to approve carried by a 4 to 0 vote


CHAIRMAN JOHN BRUNING

OTHER BUSINESS

COUNCIL BILL NO. 07-1035
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING MUNICIPAL CODE SECTION 8.04.070(B); ADOPTING A NEW CHAPTER 8.06 ENTITLED BURNING AND SMOKING ON PUBLIC PROPERTY; ADOPTING NEW SECTIONS 8.06.010, 8.06.020 AND 8.06.030 TO PROHIBIT BURNING OR OPEN FIRES ON CITY OWNED PROPERTY, TO PROHIBIT SMOKING AND OTHER ACTIVITIES CAPABLE OF GENERATING AN OPEN FLAME DURING STAGE II FIRE RESTRICTIONS AS DECLARED BY THE IDAHO DEPARTMENT OF LANDS AND DECLARING ANY VIOLATION OF CHAPTER 8.06 TO BE A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED \$1,000 OR BY IMPRISONMENT BY UP TO 180 DAYS OR BOTH; 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 recommendation by the Fire Department, 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 8.04.070 is amended to read as follows:*

8.04.070: BURNING; PROHIBITED; EXCEPTIONS:

~~A.~~ It shall be unlawful for any person to burn garbage or refuse within the municipal limits of the city of Coeur d'Alene, except brush, grass, weeds, and cuttings from trees, lawns or gardens, which may be burned only at times provided by the mayor and city council by motion or resolution, or by permit issued by the fire chief.

~~B.~~ It is also unlawful to make, use, or have any open fires in or on any city property, public beaches, city parks, including Tubbs Hill or other city property within the city except in designated barbecue areas or as permitted by the fire chief.

SECTION 2. *That a new Chapter 8.06 entitled BURNING AND SMOKING ON PUBLIC PROPERTY is hereby adopted and added to the Municipal Code as follows:*

CHAPTER 8.06 BURNING AND SMOKING ON PUBLIC PROPERTY

SECTION 3. *That a new Section 8.06.010 entitled, Burning or Fires on Public Property, is hereby adopted and added to the Municipal code as follows:*

8.06.010: BURNING OR FIRES ON PUBLIC PROPERTY:

It is unlawful to make, use, or have any open fires in or on any city owned beach, park or other property, including Tubbs Hill, except in designated barbecue areas or as permitted by the Fire Chief.

SECTION 4. *That a new Section 8.06.020, entitled Additional Restrictions During Fire Emergency, is hereby adopted and added to the Municipal code as follows:*

8.06.020: ADDITIONAL RESTRICTIONS DURING A FIRE EMERGENCY:

Whenever a Stage II Fire Restriction is declared by the Director of the Idaho Department of Lands, smoking and all activities capable of generating an open flame are prohibited on all publicly owned natural/open space areas within the City limits including: Tubbs Hill, Cherry Hill Park, Canfield Mountain area and the Veteran's Centennial Park on Fernan Hill. This restriction will remain in effect until the Director of the Idaho Department of Lands removes the Stage II Fire Restriction.

SECTION 5. *That a new Section 8.06.030, entitled Violations and Penalties, is hereby adopted and added to the Municipal code as follows:*

8.06.030: VIOLATIONS AND PENALTIES:

Any violation of this Chapter shall be a misdemeanor punishable as provided by Municipal Code section 1.28.010.

SECTION 6. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. 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 8. 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 9. 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.

APPROVED, ADOPTED and SIGNED this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
OPEN FLAMES FORBIDDEN DURING DECLARED STAGE II FIRE RESTRICTIONS

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING MUNICIPAL CODE SECTION 8.04.070(B); ADOPTING A NEW CHAPTER 8.06 ENTITLED BURNING AND SMOKING ON PUBLIC PROPERTY; ADOPTING NEW SECTIONS 8.06.010, 8.06.020 AND 8.06.030 TO PROHIBIT BURNING OR OPEN FIRES ON CITY OWNED PROPERTY, TO PROHIBIT SMOKING AND OTHER ACTIVITIES CAPABLE OF GENERATING AN OPEN FLAME DURING STAGE II FIRE RESTRICTIONS AS DECLARED BY THE IDAHO DEPARTMENT OF LANDS AND DECLARING ANY VIOLATION OF CHAPTER 8.06 TO BE A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED \$1,000 OR BY IMPRISONMENT BY UP TO 180 DAYS OR BOTH; 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. _____ 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. _____, OPEN FLAMES FORBIDDEN DURING DECLARED STAGE II FIRE RESTRICTIONS, 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 4th day of September, 2007.

Warren J. Wilson, Chief Deputy City Attorney

PUBLIC HEARINGS

CITY COUNCIL STAFF REPORT

DATE: September 4, 2007
FROM: Christopher H. Bates, Engineering Project Manager 
SUBJECT: **V-07-1, Vacation of a Portion of Excess 8th Street Right-of-Way in the Keller's Addition to Coeur d'Alene, between Elm Avenue and the Adjacent Block 2 Alleyway.**

DECISION POINT:

The applicants, Matthew & Amie Anderson are requesting the vacation of ten feet (10') of excess r/w along their property frontage (Lot 1, Block 2) on 8th Street.

HISTORY:

The Keller's Addition to CdA (attached) which was platted in 1906, included an eighty foot (80') for 8th Street. A number of the plats that were approved in that period of the early 1900's all had the r/w for 8th Street at eighty feet, however, all of the streets were built to a thirty four foot (34') standard, thus leaving considerable excess r/w. The roadway section (less sidewalk) is developed along the subject property, and the constructed roadway within the r/w is 34' wide. The City has previously vacated (1940) a portion of excess r/w of 8th Street to the north of the subject property (8th & Birch).

FINANCIAL ANALYSIS:

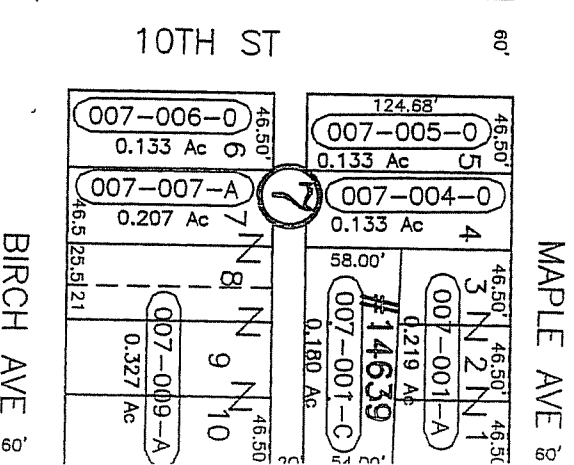
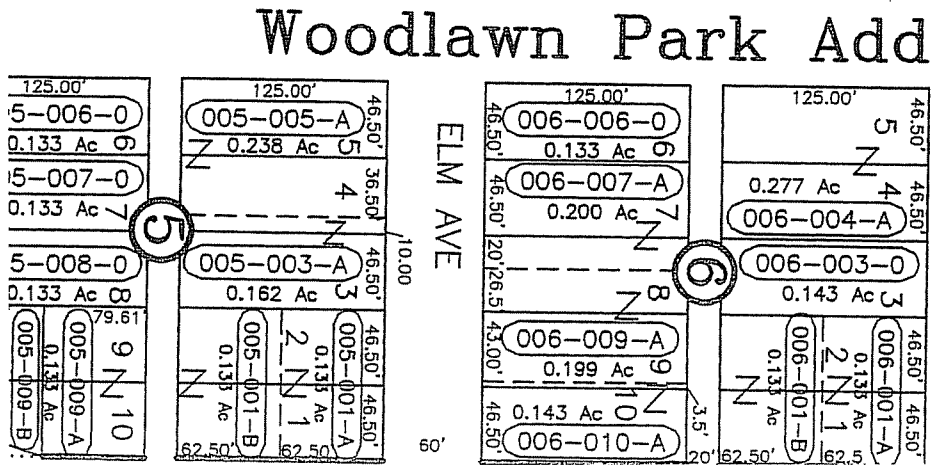
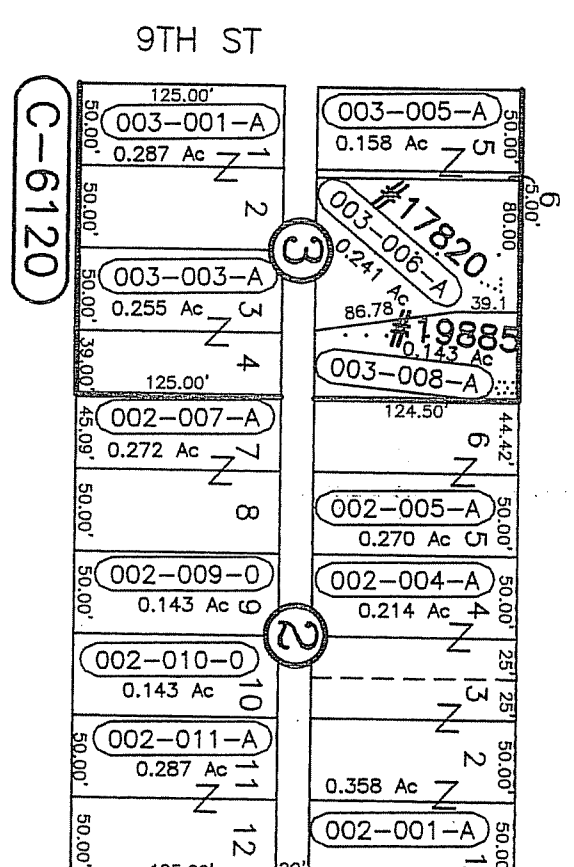
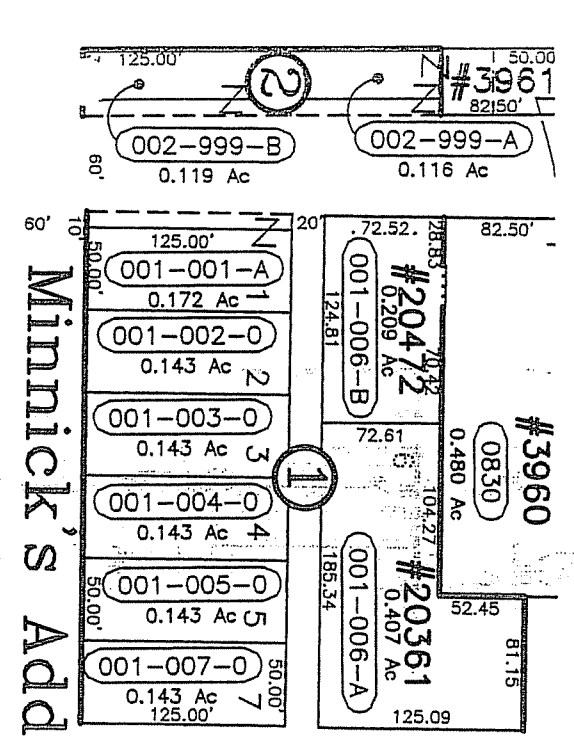
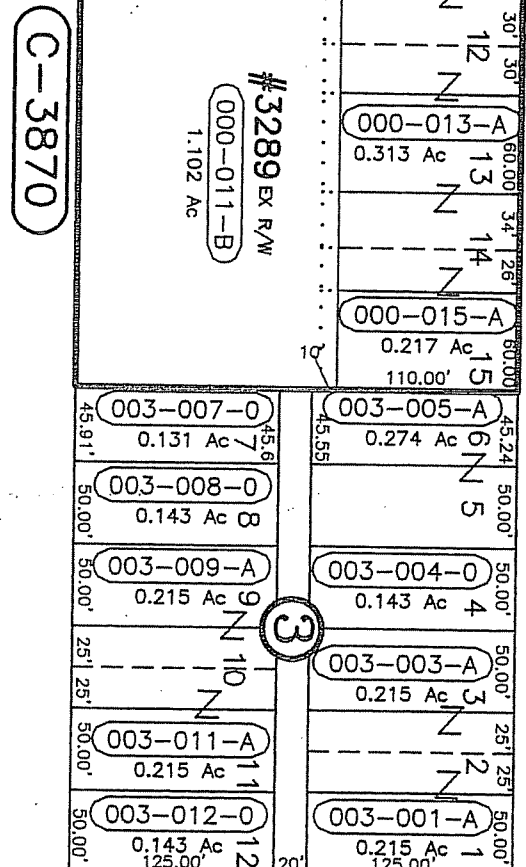
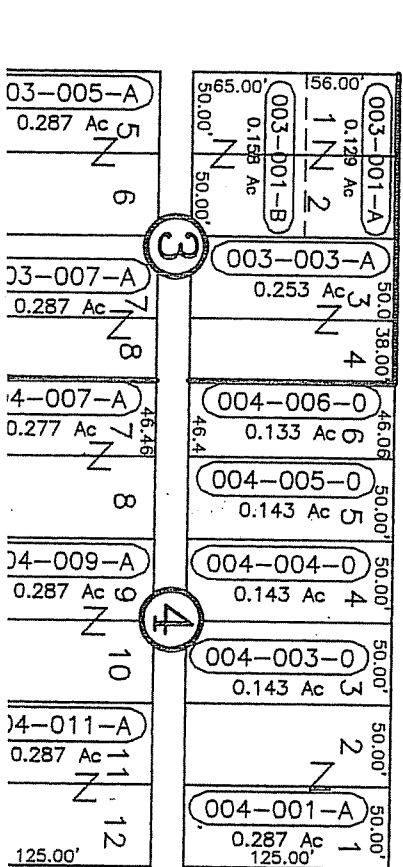
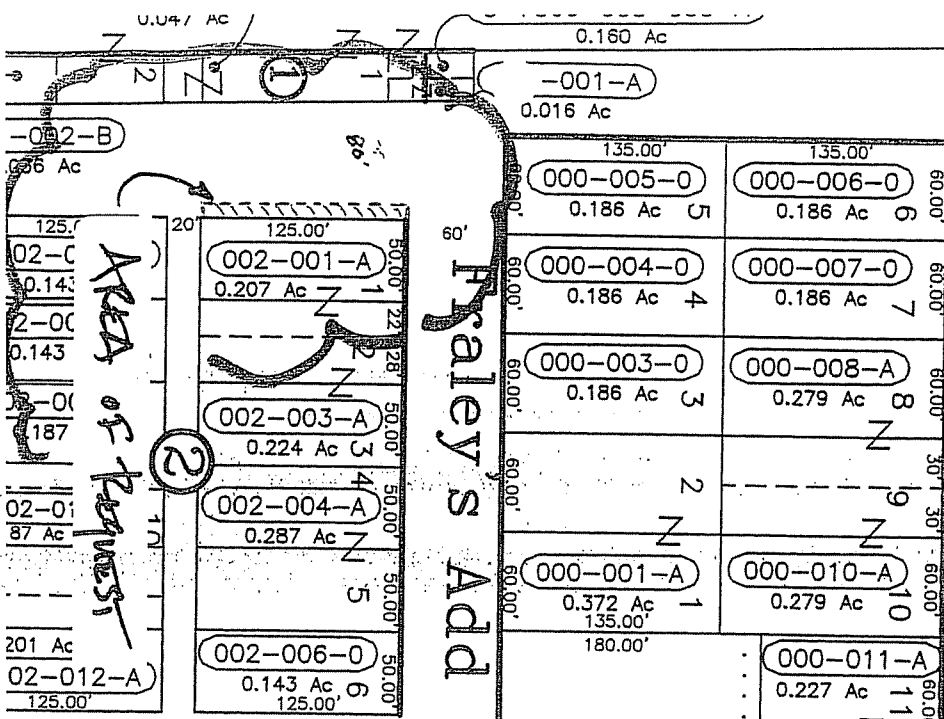
There is no cost to the City, and, approximately 1200 sq.ft. would be removed from tax exempt status and added to the County as taxable.

PERFORMANCE ANALYSIS:

The applicant desires to construct a garage on their site, and, vacation of a portion of the adjoining r/w would allow this to happen while still providing for a usable rear yard area. Construction on the subject property would result in the installation of sidewalk on the 8th Street frontage, and, with the vacation there would still be sufficient area to keep it within the r/w. The Public Works Committee at the July 23, 2007 meeting directed staff to proceed with the item to public hearing.

SUMMARY:

Matthew and Amie Anderson are requesting the vacation of ten feet (10') of excess right-of-way along the frontage of their lot on 8th Street. The original platted r/w (Keller's Addition, 1906) contained eighty feet (80') which exceeds the current City standard of sixty feet (60'). Vacation of the requested ten feet (10') would not impact the roadway, and, would still allow for the placement of sidewalk within the r/w when warranted.



4

5

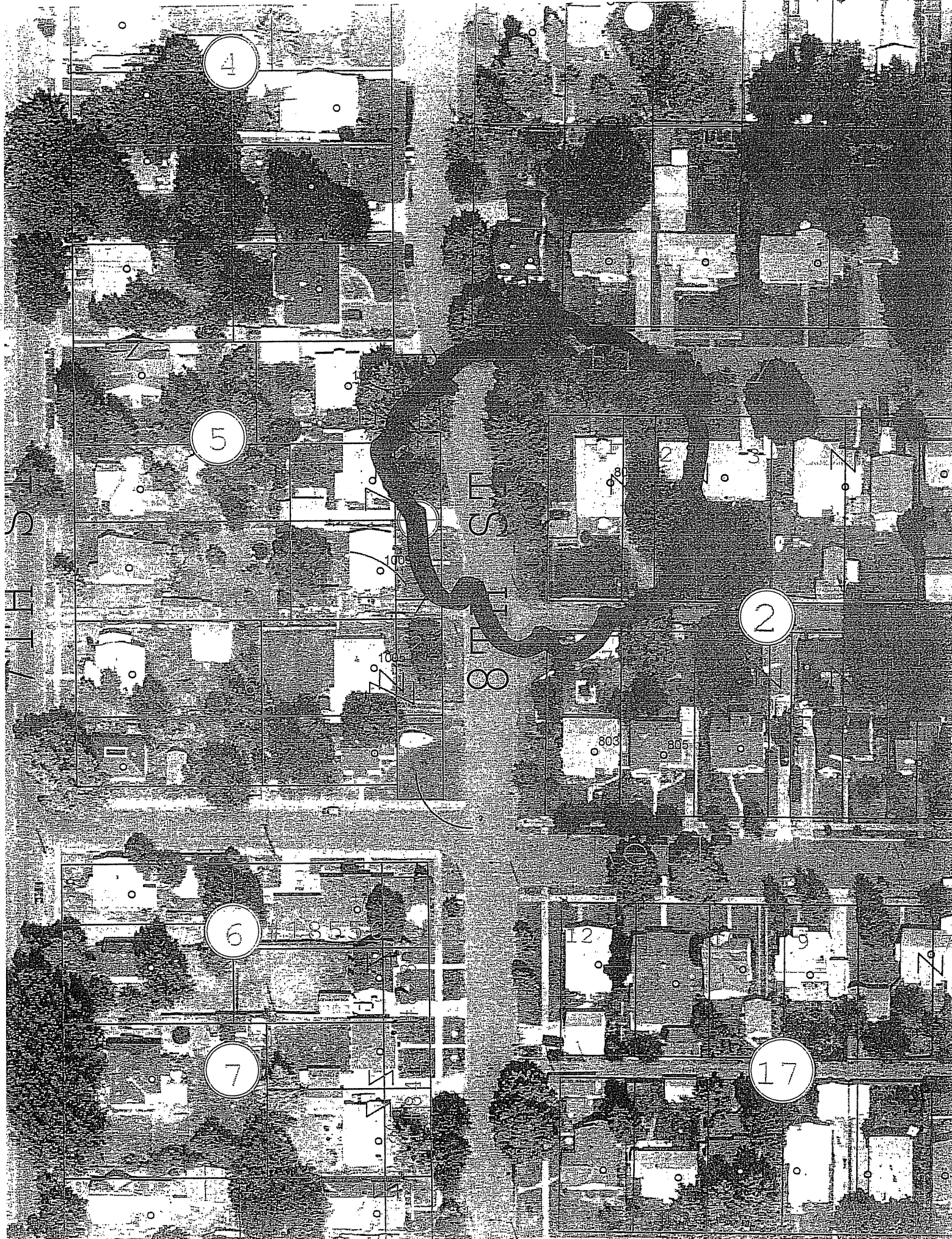
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6

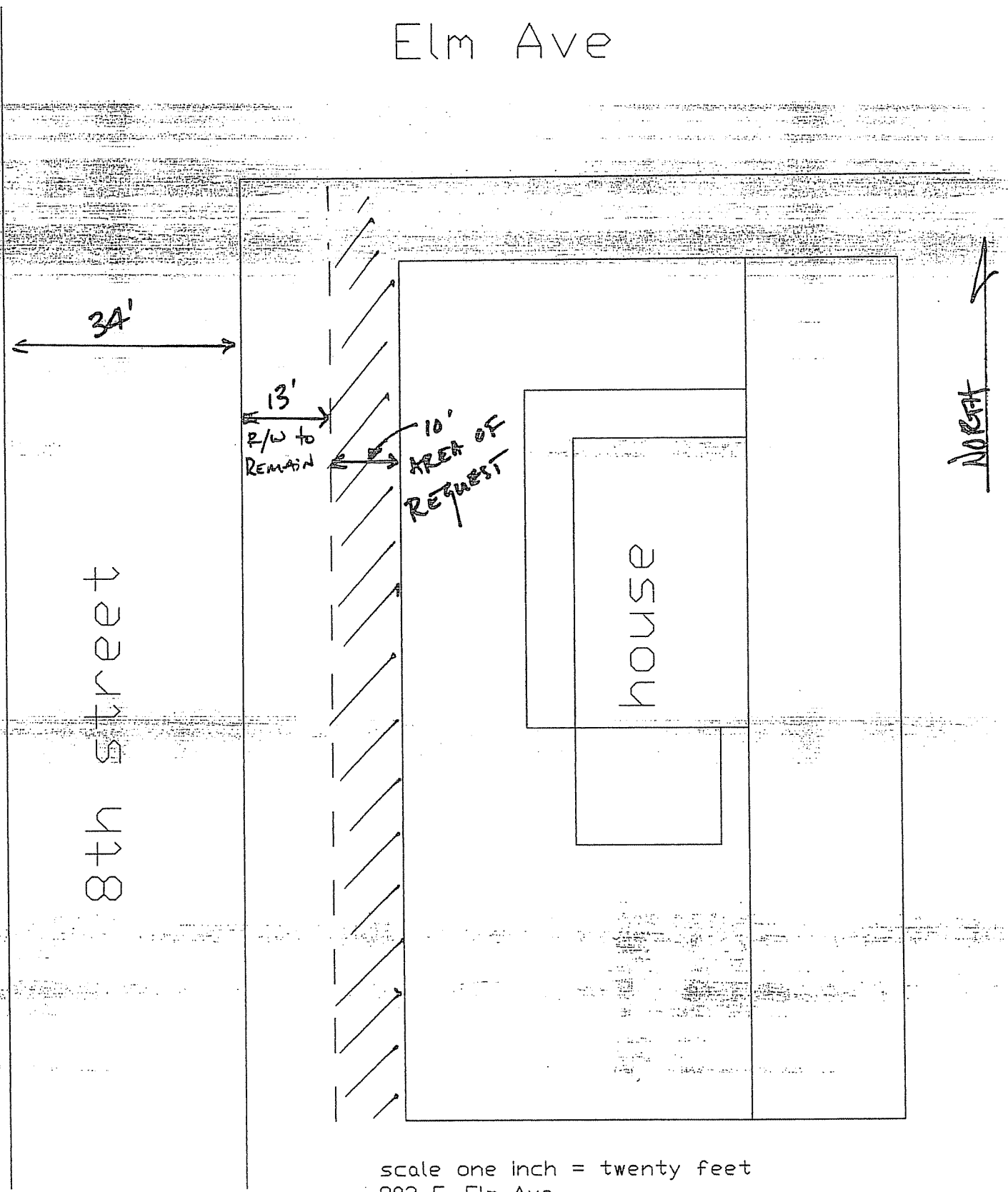
7

12

17



Elm Ave



scale one inch = twenty feet
802 E. Elm Ave.
Matthew M. Anderson

Council Bill No. 07-1034
Ordinance No. _____

AN ORDINANCE ENTITLED "THE ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2007" APPROPRIATING THE SUM OF \$66,679,040 TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF COEUR D'ALENE FOR SAID YEAR; LEVYING A SUFFICIENT TAX UPON THE TAXABLE PROPERTY WITHIN SAID CITY FOR GENERAL REVENUE PURPOSES FOR WHICH SUCH APPROPRIATION IS MADE; LEVYING SPECIAL TAXES UPON THE TAXABLE PROPERTY WITH SAID CITY FOR SPECIAL REVENUE PURPOSES WITHIN THE LIMITS OF SAID CITY OF COEUR D'ALENE, IDAHO; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

Section 1

That the sum of \$66,679,040 be and the same is hereby appropriated to defray the necessary expenses and liabilities of the City of Coeur d'Alene, Kootenai County, Idaho, for the fiscal year beginning October 1, 2007.

Section 2

That the objects and purposes for which such appropriations are made are as follows:

GENERAL FUND EXPENDITURES:

Mayor and Council-----	\$ 193,585
Administration-----	787,352
Finance Department-----	771,370
Municipal Services-----	1,251,108
Human Resources-----	244,632
Legal Department-----	1,211,519
Planning Department-----	546,406
Building Maintenance-----	527,636
Police Department-----	8,675,965
K.C.J.A. Task Force-----	24,340
C.O.P.S. Grant-----	58,061
Byrne Grant-----	45,730
Fire Department-----	5,879,934
General Government-----	344,313
Engineering Services-----	1,310,081
US Streets/Garage-----	2,351,755
Parks Department-----	1,643,316
Recreation Department-----	800,110
Building Inspection-----	834,321
TOTAL GENERAL FUND EXPENDITURES:	<u>\$27,501,534</u>
SPECIAL REVENUE FUND EXPENDITURES:	
Library Fund-----	\$ 1,074,027

Impact Fee Fund-----	585,000
Parks Capital Improvements-----	487,500
Annexation Fee Fund-----	230,000
Insurance / Risk Management-----	310,500
Cemetery Fund-----	<u>293,738</u>
TOTAL SPECIAL FUNDS:	<u>\$ 2,980,765</u>
ENTERPRISE FUND EXPENDITURES:	
Street Lighting Fund-----	\$ 560,203
Water Fund-----	6,284,904
Wastewater Fund-----	13,001,464
Water Cap Fee Fund-----	960,000
WWTP Cap Fees Fund-----	2,482,683
Sanitation Fund-----	3,025,984
City Parking Fund-----	167,132
Stormwater Management-----	<u>1,504,169</u>
TOTAL ENTERPRISE EXPENDITURES:	<u>\$27,986,539</u>
TRUST AND AGENCY FUNDS:-----	2,647,708
CAPITAL PROJECTS FUNDS:-----	3,190,015
DEBT SERVICE FUNDS:-----	<u>2,372,479</u>
GRAND TOTAL OF ALL EXPENDITURES:	<u>\$66,679,040</u>

Section 3

That a General Levy of \$13,061,905 on all taxable property within the City of Coeur d'Alene be and the same is hereby levied for general revenue purposes for the fiscal year commencing October 1, 2007.

That a Special Levy upon all taxable property within the limits of the City of Coeur d'Alene in the amount of \$2,318,934 is hereby levied for special revenue purposes for the fiscal year commencing October 1, 2007.

Section 4

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 there from.

Section 5

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.

APPROVED by this Mayor this 4th day of September, 2007.

Sandi Bloem, Mayor

ATTEST:

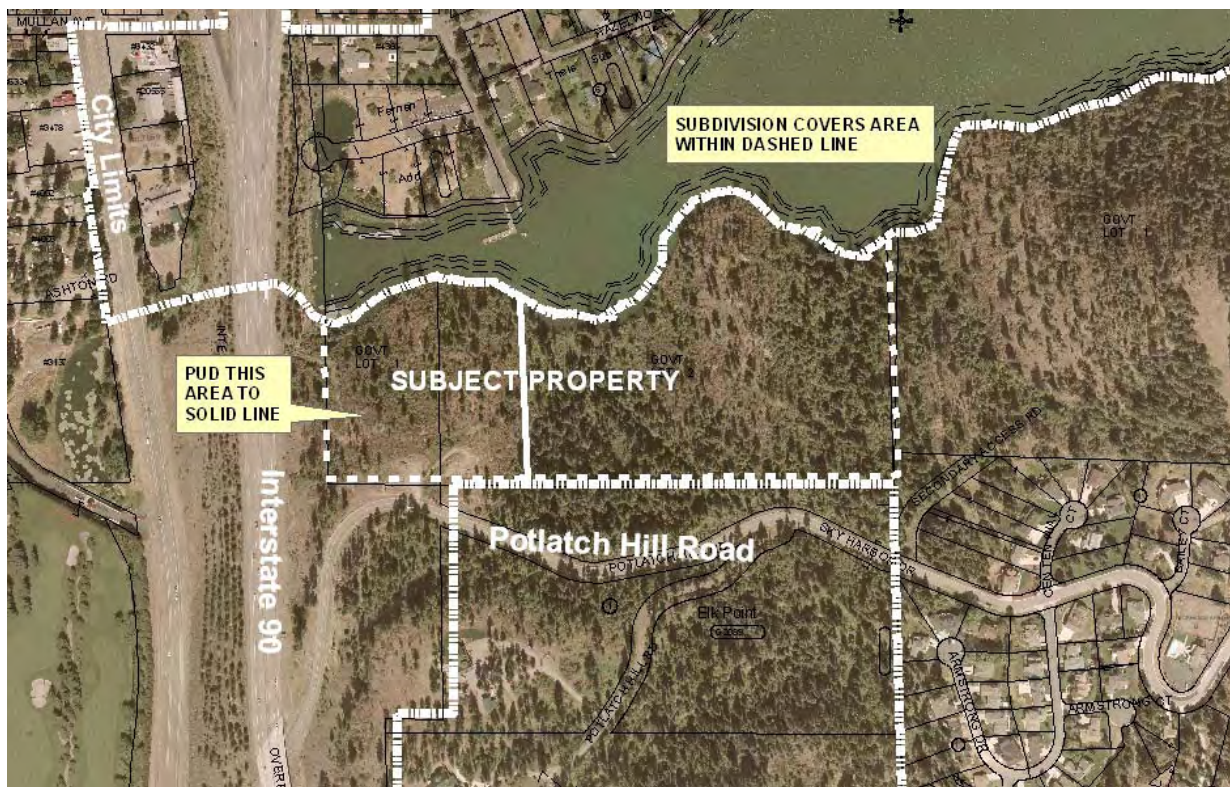
Susan K. Weathers, City Clerk

CITY COUNCIL STAFF REPORT

FROM: JOHN J. STAMOS, ASSOCIATE PLANNER
DATE: SEPTEMBER 4, 2007
SUBJECT: PUD-4-07 – “LAKE FERNAN HEIGHTS PUD” PLANNED UNIT DEVELOPMENT
S-7-07 – 8-LOT “LAKE FOREST HEIGHTS” PRELIMINARY PLAT SUBDIVISION
LOCATION – +/- 22.2-ACRE PARCEL BETWEEN POTLATCH HILL ROAD AND LAKE FERNAN, JUST WEST OF ARMSTRONG PARK SUBDIVISION

SITE PHOTOS:

A. Aerial photo



B. Looking West at area where the seven residential lots are proposed.



C. Looking North from where residential lots are proposed.



D. Looking East at 19.5 acre remainder parcel.



E. Subject property from Fernan Lake.



F. Subject property from Fernan Lake.



DECISION POINT:

A. Fernan Lake Preservation, LLC is requesting Preliminary Plat approval of “Lake Fernan Heights”, a 22.2- acre 8-lot subdivision on a private street in the R-3 (Residential at 3 units/acre) zoning district and approval of “Lake Fernan Heights PUD” Planned Unit Development a 7.03-acre PUD in the R-3 (Residential at 3 units/acre) zoning district

The proposed development includes:

1. Seven residential lots ranging in size from 13,284 sq. ft. to 15,846 sq. ft.
2. A 4.41-acre open space area (Tract A) that is part of the PUD and indicated to satisfy the PUD 10% open space requirement.
3. A 15.17-acre remainder lot that is not part of the PUD and will remain undeveloped and in its natural state.
4. The development would be served by a private street with 26 feet of pavement, curb & gutter, 5-foot wide sidewalk on one side and a 33 foot right-of-way.
5. Each home would have two on-site parking spaces and there would be four additional visitor spaces provided adjacent to the street.

6. The intent of the project is to leave the 4.41 open space tract in its natural state rather than developing it for any recreational uses. A home owners association will be created to own, operate and maintain all common or open areas.

B. The following modifications to various provisions of the Zoning and Subdivision Ordinances are requested through the PUD to facilitate this request:

Zoning Ordinance:

1. Zero street frontage for all lots.
(This is required because the development is on a private street.)
2. Reduce building setbacks:
Front yard – To 4-feet from 20-feet
Rear yard – To 13-feet from 25-feet
3. Reduce required 20-foot driveway length from street property line to 13-feet from 20-feet
4. Required street trees for single-family lots.

Subdivision Ordinance:

1. Private street with reduced street standards, as follows:

26 foot street with standard curbs and a 5-foot sidewalk on one side in a 33-foot right-of-way.

(The standard street is 60-feet of right-of-way, 36-foot wide paved street with curb, gutter and 5-foot sidewalks and swales on both sides)
2. Modify dead-end street or cul-de-sac requirements to allow a turn-around, as shown in detailed development plan. Sheet (C1)

NOTE: The above deviations are the only ones requested. All other zoning and subdivision ordinance requirements apply.

C. Evaluation: The Commission should bear in mind that a PUD is intended to provide for flexibility and diversity of use by removing the limitations in the typical lot-by-lot approach to development. It is not intended to be a means to waive certain development regulations. The Commission must, therefore, determine if the concept of the proposal is unique enough that it merits the flexibility afforded by the PUD regulations.

In making this determination, the Planning Commission should decide if the modifications requested represent a substantial change over what would be allowed if the regulations were applied on a lot-by-lot basis.

Since the proposal adheres to most site performance standards, the chief benefits of this PUD for the applicant are:

- A low density single-family development with significant views of Fernan Lake and the Rathdrum Prairie.

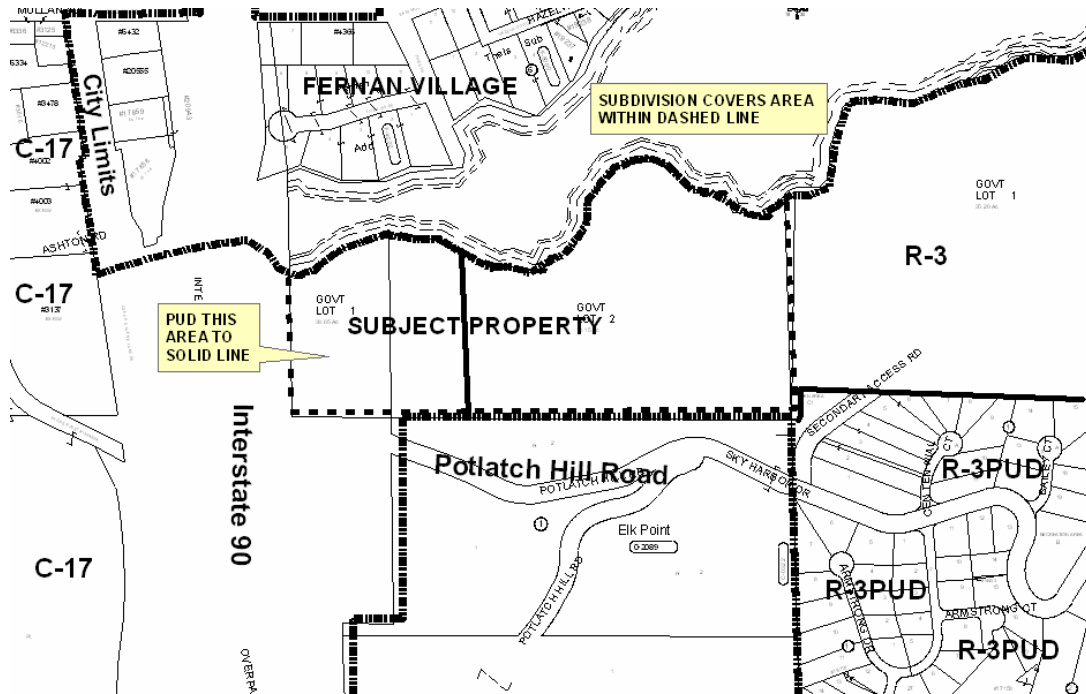
- A private street development with streets built to design standards that are less than what is required in the Subdivision Ordinance.

The Commission must decide if this request meets the intent of the PUD regulations and in so doing may wish to consider that certain benefits accrue to the city and the public by virtue of a planned unit development:

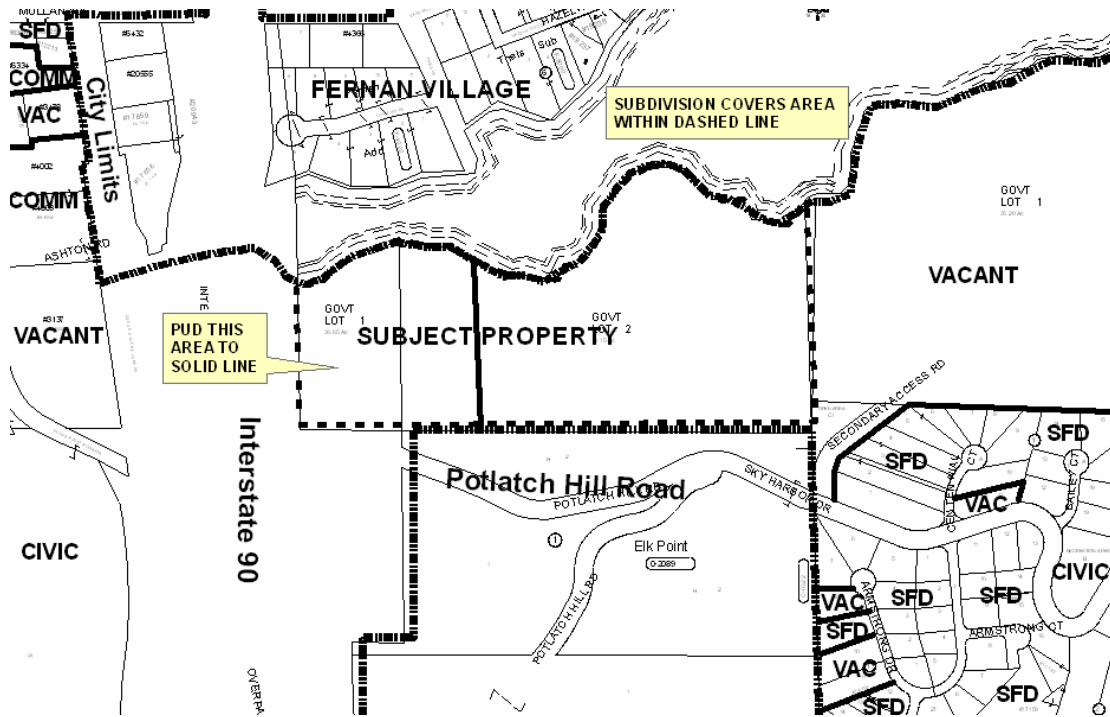
- A residential development that could preserve a significant portion of the subject property in its natural state. (19.6 acres of the total area of 22.2 acres.)
- Ability to add conditions to an approval.
- Ability to lock in development plans for the future.
- Ability to negotiate solutions that benefit all.

GENERAL INFORMATION:

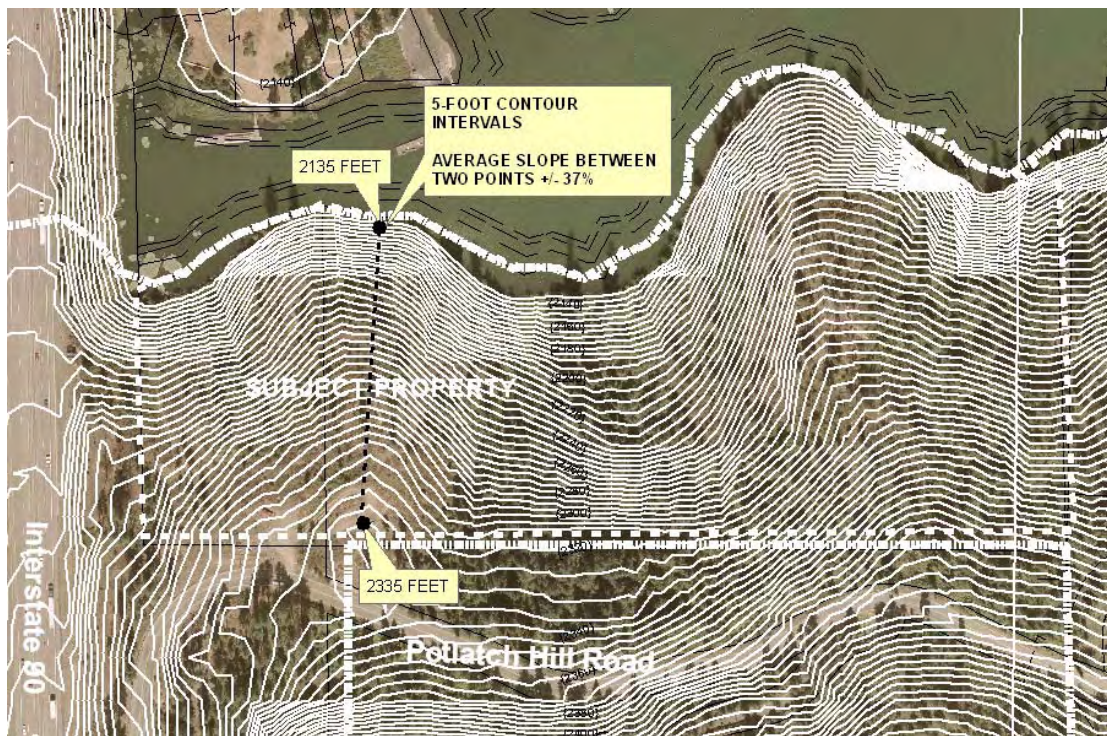
A. Zoning



B. Land use



C. Elevation contours on subject property

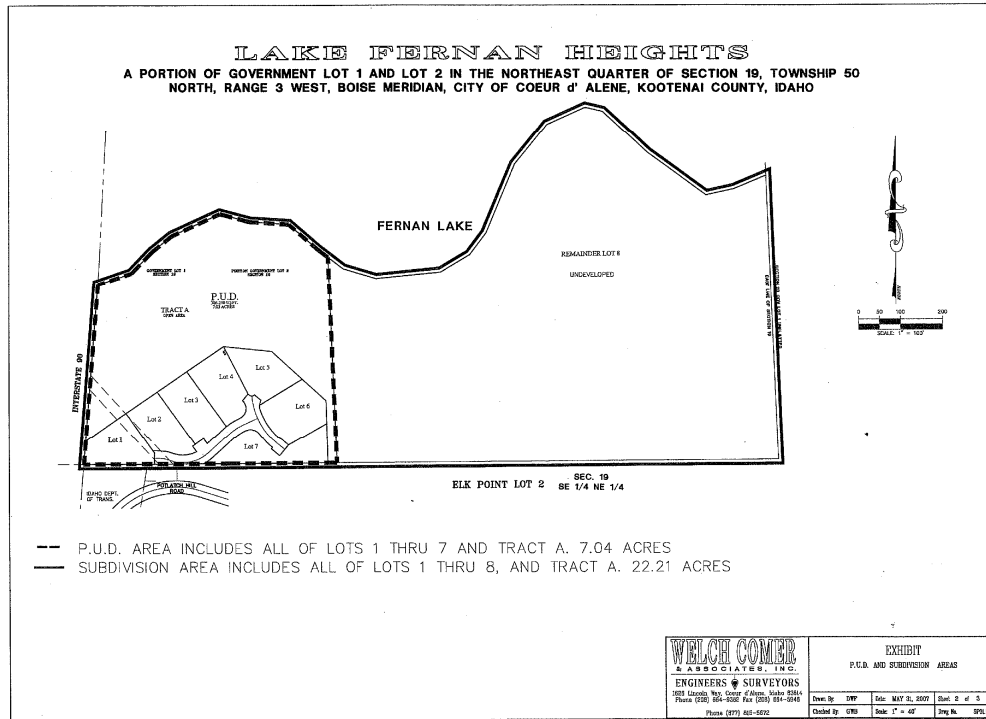


D. Architectural rendering of "Lake Fernan Heights."



**RANN HAIGHT
ROY MARSHALL
ARCHITECTS**
P.O. Box 1752
Coeur d'Alene, ID 83816
(208) 664-4693
(208) 666-9226 fax
rannhight@adelphia.net

E. Boundaries of PUD and Preliminary Plat



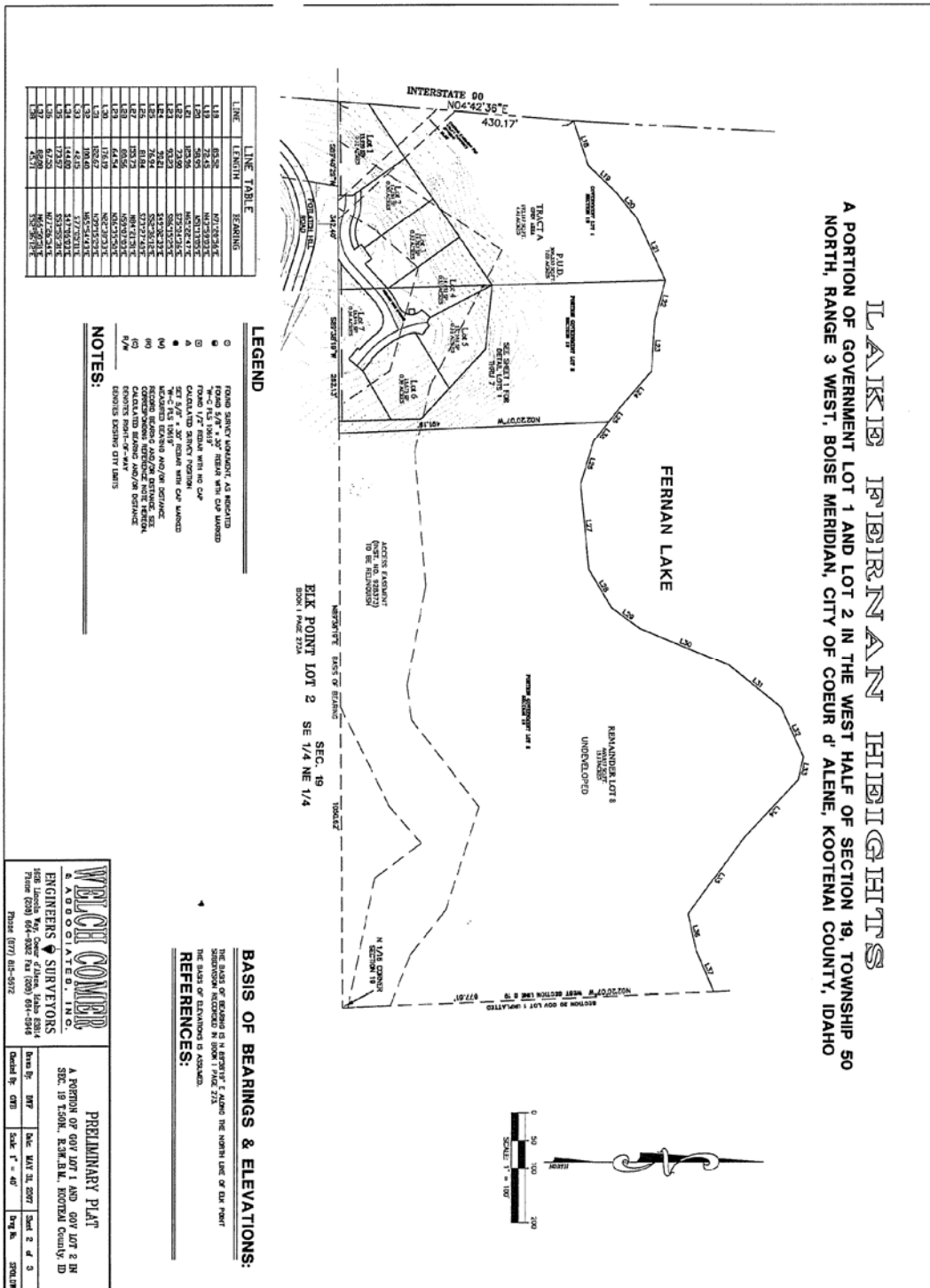
F. Preliminary PUD Plan "Lake Fernan PUD"



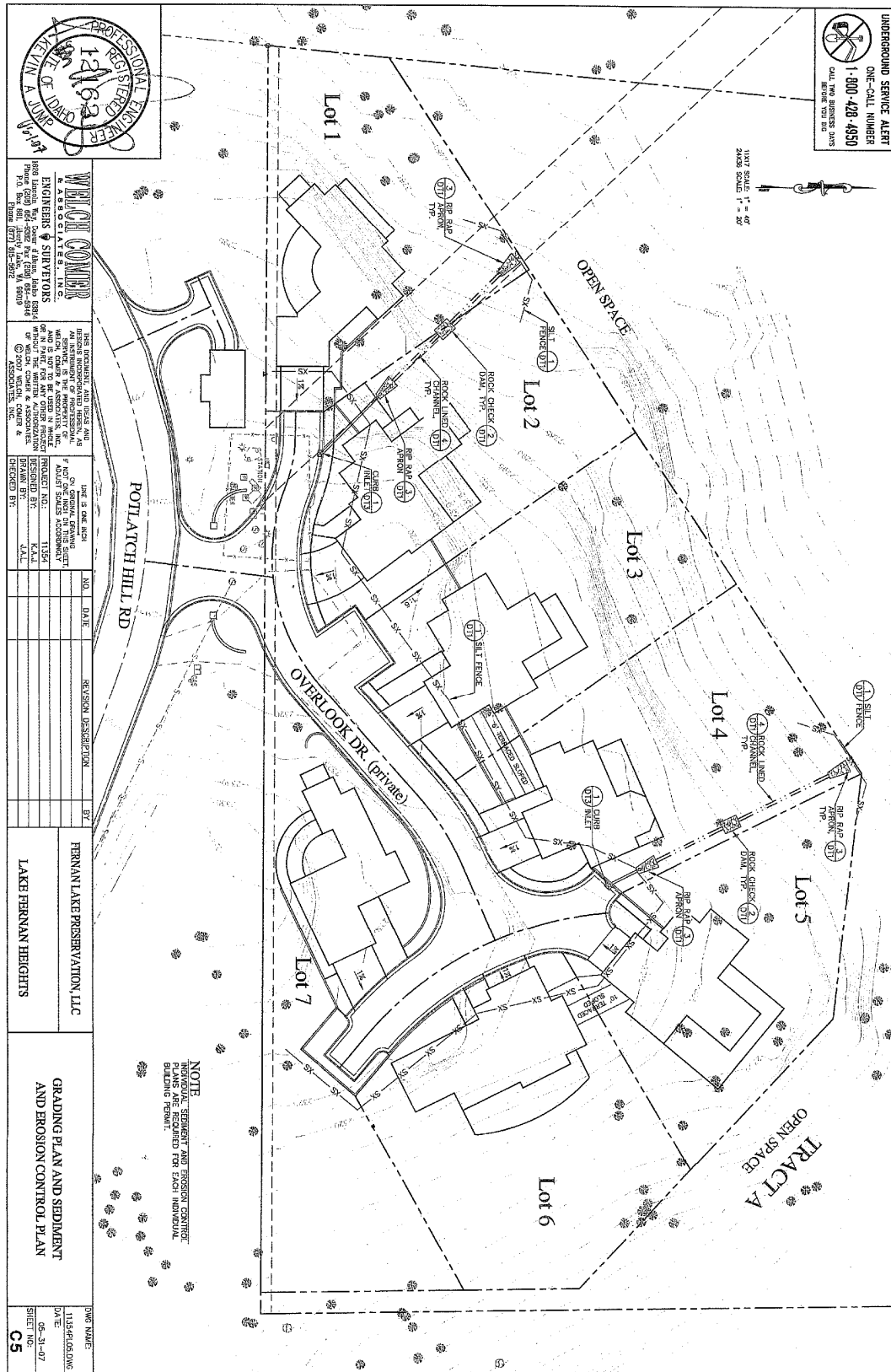
1:1117 SCALE 1" = 40'
2:4246 SCALE 1" = 20'

<p>WELCH CORNER A PROFESSIONAL ARCHITECTURAL FIRM ENGINEERS & ARCHITECTS 1000 Lakeside Blvd., Suite 200, Lake Bluff, IL 60044 Phone: (847) 533-0000 Fax: (847) 533-0009</p>		<p>DESIGN: WELCH CORNER DATE: 01-27-07 SCALE: 1" = 20'</p>	
<p>DESIGN: WELCH CORNER DATE: 01-27-07 SCALE: 1" = 20'</p>		<p>USE IS ON THE PROPERTY OF PERNAN LAKE PRESERVATION LLC PROJECT NO.: 11524 DESIGNED BY: HW/VAJ DRAWN BY: SSS CHECKED BY:</p>	
<p>PERNAN LAKE PRESERVATION LLC LAKE PERNAN HEIGHTS</p>		<p>RANN HAIGHT ROY MARSHALL ARCHITECTS 101.866.1132 Cedar Rapids, IA 52416 (319) 664-4633 (319) 664-2226 fax www.rhmarsh.com</p>	
<p>PLANNED UNIT DEVELOPMENT SITE PLAN</p>		<p>DATE: 11/24/05 DATE: 01-27-07 SCALE: 1" = 20'</p>	

G. "Lake Fernan Heights" Preliminary Plat.



I. Erosion Control Plan



WELCH CORNER
ENGINEERS & SURVEYORS
 1800 Lincoln Hwy. Suite 200, Lakeside, VA 22042
 P.O. Box 811, Liberty Lake, VA 22089
 Phone: (703) 836-5925

THIS DOCUMENT, AND THESE AND ANY INSTRUMENTS OF PROFESSIONAL SERVICE, SHALL BE THE PROPERTY OF WELCH CORNER & ASSOCIATES, INC. AND SHALL BE LOANED TO THE CLIENT FOR THE PROJECT SPECIFICALLY IDENTIFIED HEREIN. IT IS TO BE RETURNED TO WELCH CORNER & ASSOCIATES, INC. UPON COMPLETION OF THE PROJECT AND NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN AUTHORIZATION OF WELCH CORNER & ASSOCIATES, INC.

NO.	DATE	REVISION DESCRIPTION	BY
1		DATE IS ONE inch	
2		ON ORIGINAL DRAWING	
3		FOR INSTRUMENT OF PROFESSIONAL SERVICE	
4		WELCH CORNER & ASSOCIATES, INC.	
5		PROJECT NO. 11527	
6		DESIGNED BY: K.A.L.	
7		DRAWN BY: J.A.L.	
8		REVISION NO.	

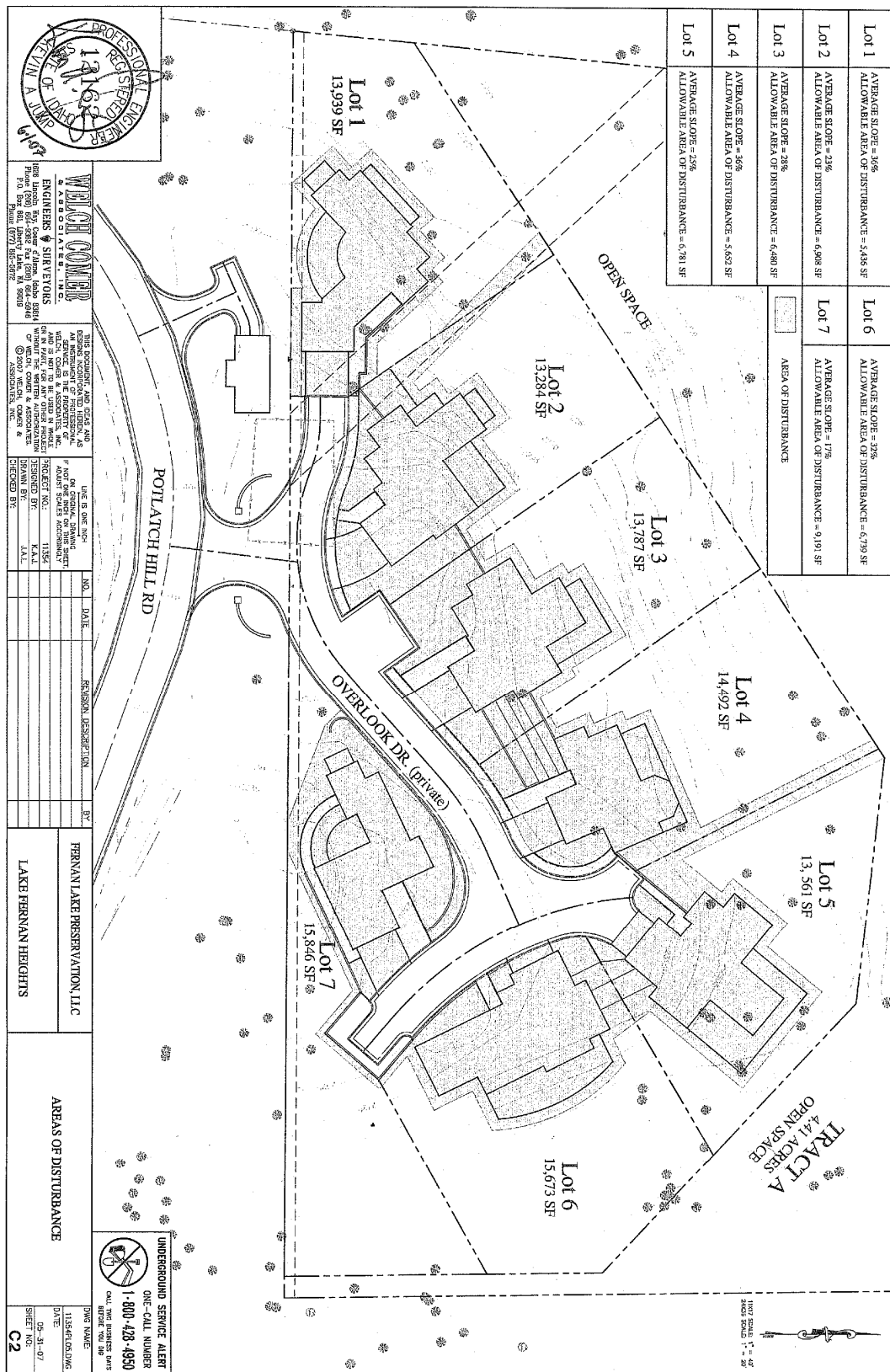
PERNNANT LAKE PRESERVATION, LLC
 LAKE PERNNAN HEIGHTS

GRADING PLAN AND SEDIMENT AND EROSION CONTROL PLAN

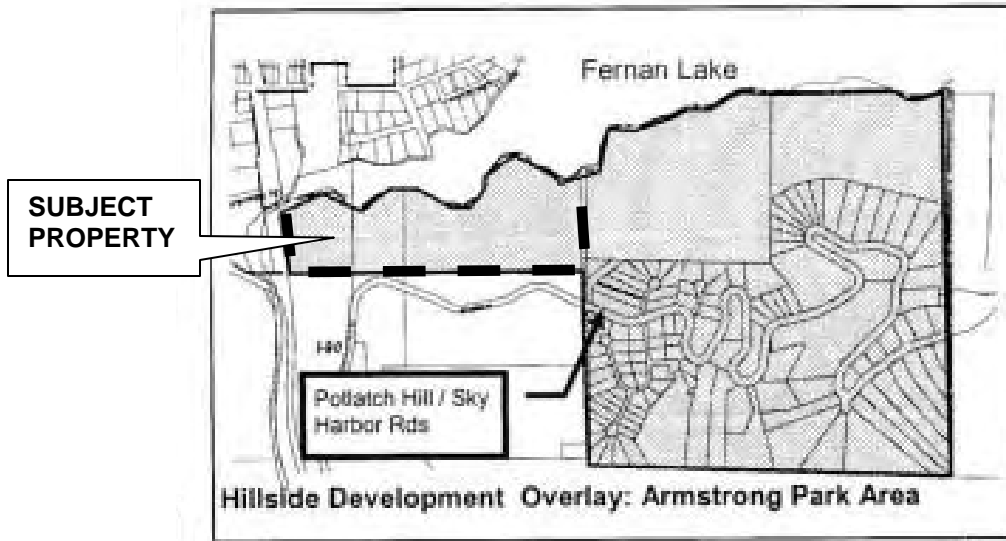
DWG. NAME: 11527-05.00
 DATE: 08-31-07
 SHEET NO.: C5

NOTE
 PROVIDE PERMIT AND EROSION CONTROL BUILDING PERMIT FOR EACH STRUCTURE.

J. Site Disturbance Plan.



K. Hillside Overlay District.



L. Applicant: Fernan Lake Preservation, LLC
Owner 1105 Sherman Avenue
Coeur d'Alene, ID 83814

M. Land uses in the area include residential - single-family and vacant land.

N. The subject property is vacant with a tree cover of Ponderosa Pine and other conifers.

O. Planning Commission action:

The Planning Commission heard the request on July 10, 2007 and took the following action:

1. Motion to approve by a 3 to 1 vote.
2. On July 24, 2007 an appeal of the Planning Commission's decision was filed with the City.
3. On July 31, 2007, The City Council set the public hearing for September 4, 2007.

PERFORMANCE ANALYSIS:

Planned Unit Development Findings:

A. **Finding #B8A: The proposal (is) (is not) in conformance with the Comprehensive Plan.**

1. The subject property is within the existing city limits.

2. The City Comprehensive Plan Map designates this area as a Transition Area, as follows:

Transition Areas:

"These areas represent the locations where the character of neighborhoods is in transition and, overall, should be developed with care. The street network, the number of building lots and general land use are planned to change greatly within the planning period."

Page 28 – All requests for zone changes, special use permits etc., will be made considering, but not limited to:

1. The individual characteristics of the site;
2. The existing conditions within the area, and
3. The goals of the community.

Significant policies for your consideration:

4C: "New growth should enhance the quality and character of existing areas and the general community."

4C1: "Development that proposes to increase the density of a given area may be allowed, provided that the increase maintains the character of the community."

4C3: Population growth should be compatible with preserving Coeur d'Alene's character and quality of life."

4C5: "New development should provide for bike paths and pedestrian walkways in accordance with the transportation plan and bike plan."

6A: "Promote the orderly development of land use at locations that are compatible with public facilities and adjacent land uses."

14A3: "All new developments must provide for immediate hook up to the sanitary sewer system."

23B1: "New developments should be required to be within an existing sewage service area or provide a system that does not pollute the aquifer."

24C: "Natural vegetative cover should remain as a dominant characteristic of Coeur d' Alene."

24E: "The natural physical form of the Coeur d'Alene planning area should be preserved."

24E1: "The major visual resources (vistas, views) should be protected and preserved in a manner which enhances the natural beauty and identity of the landmarks."

- A. Tubbs Hill
- B. Lakeview Hill
- C. Potlatch Hill to Canfield Butte ridgeline, including Best Hill
- D. Coeur d'Alene Lake, Fernan Lake and Spokane River shorelines
- E. Mica Peak

- 24E2 "Only land uses compatible with these visual resources should occupy them. Land uses to be encouraged are:
 A. Open space
 B. Recreation
- 24E3: Other land uses may be acceptable with proper design precautions.
- 42A2: "Property rights of citizens should be protected in land use decisions."
- 46A: "Provide for the safe and efficient circulation of vehicular traffic."
- 51A: "Protect and preserve neighborhoods both old and new."
- 51A4: "Trees should be preserved and protected by support of the Urban Forestry Program and indiscriminate removal discouraged."
- 51A5: "Residential neighborhood land uses should be protected from intrusion of incompatible land uses and their effects."
- 56A1: "Proposed development in any hazardous land areas must pass special review, germane to the area, such as geotechnical review and erosion control plans."
- 56A3: "Developers shall be encouraged to utilize marginal lands by incorporating them in their development plans as open space and/or as a less intensive area."
- 58A: "Identify, acquire, and preserve scenic easements to protect public sight lines of surrounding hills, lakes, and landmarks."
- 58B: "Encourage the identification, preservation, and protection of special places and landmarks."
- 58B1: "Open space and wildlife areas should be protected through proper land management and fire protection policies."
- 62A: "Examine all new developments for appropriateness in regard to the character of the proposed area. Inform developers of City requirements and encourage environmentally harmonious projects."

Transportation Plan policies:

The Transportation Plan is an addendum to the Comprehensive Plan and is a policy document that is intended to guide decisions that affect transportation issues. Its goal is to correct existing deficiencies and to anticipate, plan and provide for future transportation needs.

- 33A: "Safe vehicular and pedestrian circulation should be enhanced through careful design and active enforcement."
- 34B: "Reduce automobile dependency by providing bike paths and sidewalks."

3. Evaluation: The City Council must determine, based on the information before them, whether the Comprehensive Plan policies do or do not support the request. Specific ways in which the policy is or is not supported by this request should be stated in the finding.

B. Finding #B8B: The design and site planning (is) (is not) compatible with existing uses on adjacent properties.

The subject property is located on the south side of Fernan Lake on an undeveloped steep hillside. The proposed development will include seven single family lots on a private street with access to Potlatch Hill Road in an area that is probably the only building site on the entire property because of the topography. Land uses in the surrounding area include single-family residential (Armstrong Park subdivision and single-family dwellings in surrounding unincorporated areas) and vacant land.

Evaluation: The City Council must determine, based on the information before them, that the request is compatible with uses on adjacent properties in terms of density, design, parking, and open space and landscaping.

C. Finding #B8C: The proposal (is) (is not) 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 wild land urban interface; and complements the visual character and nature of the city.

The subject property is under the jurisdiction of the Hillside Overlay Zone (See page 14) and is a steep hillside parcel on the south shore of Fernan Lake with an average slope exceeding 35% in most areas of the subject property. The area where the seven residential lots are proposed appears to be the only developable area on the entire parcel with an average slope of +/- 31%.

Compliance with the Hillside Overlay Ordinance pertains to all development and land disturbing activities and must include the following:

1. Geotechnical study.

This study has been submitted and reviewed by the City Engineer and was used in designing and evaluating the grading and erosion control plan and storm water management plans and will be used in the future to determine foundation requirements for homes on individual lots.

2. Grading and Erosion Control and Stormwater Management plans.

The grading plan submitted by the applicant meets all of the street design standards of the Subdivision Ordinance, as determined by the City Engineer.

The Erosion Control and Stormwater Management plans (See page 12) are combined for evaluation, as follows:

City Code requires a stormwater management plan to be submitted and approved prior to any construction activity on the site. A stormwater management concept has been proposed utilizing two (2) rock lined channels with check dams to retard the runoff flow downhill with general dispersion down slope at the terminus of the channel. No detailed analysis has been presented to determine the viability of the proposal and any solution to drainage issues on the subject property must be designed so there is no net increase in site runoff entering into the adjacent Fernan Lake.

Evaluation: In addition to meeting the standards established in Section 17.08.940 "Sensitive Surface Waters" of the City's Hillside Ordinance #3091, any stormwater facilities for the subject development must meet the following criteria:

- A. Developed site flows must be detained and may be metered out in quantities that do not result in any erosion or other detrimental impact to the existing hillside or Fernan Lake. Concentrated flows will not be allowed to be generated and released from the developed site.
- B. Overland hillside flow cannot exceed the "pre-developed" flow quantities from the subject property.
- C. Drainage flows cannot be diverted into new channels that result in an increase to the overall downhill flow quantity.
- D. Any detention basin or structure must be accessible to allow for periodic maintenance or reconstruction if necessary. Easements for access and maintenance must be placed on the final plat document to ensure that ability.
- E. Any stormwater facilities that are constructed must be free and clear of any existing subsurface utilities (sewer, water, power, etc.), in the event that maintenance of the existing subsurface facilities is required that would result in damage to the stormwater drainage channels or structures.
- F. Any drainage plan for the subject property must also adhere to the "Storm and Surface Water Drainage" section of the site geotechnical evaluation report submitted by ALLWEST, dated April 25, 2007.
- G. The homeowners association will be required to maintain all stormwater drainage facilities serving the subject property. This will be required to be a component of any CC&R's for the subject development.
- H. Silt fence will be required to be installed around any/all construction sites. Silt fencing will be required to be installed prior to the commencement of site disturbance, with approval of the installation by the City Inspector prior to any activity on-site. All fencing will be required to be maintained throughout the construction period until vegetation is of sufficient developed nature to serve as a natural barrier to erodible forces.

Evaluation: The area where the seven residential lots are indicated should be developed with strict adherence to the Hillside Development Regulations.

3. Tree preservation, protection and removal.

Trees on the subject property are treated in the following manner:

- A. Trees located in a construction zone can be removed and do not have to be replaced if they are located within a
 - 1. Building envelope;
 - 2. proposed street right-of-way, driveway or parking area;
 - 3. within water, sewer, or other public utility easement;
 - 4. 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.
- B. When development occurs on individual building lots, the protection and removal of trees will be determined by staff through the building permit process.

4. Sensitive surface waters. (Parcels within 500 feet of Fernan Lake)

For those parcels located in this zone, the following additional requirements apply:

- A. Storm Water Management Plan. (See comments on pages 17 & 18)
- B. Density.

The subject property has an undulating topography but, within the PUD area, the average slope of at least +/- 37% so, will have a development density of one unit per 2.5 acres, the lots must be clustered, a PUD is required and no driveways greater than 100 feet.

Evaluation: The density of the project is one unit per 3.2 acres, it is in a PUD, the 7 lots to be developed are clustered in one building area and the longest driveway is +/- 25 feet.

- C. Waterfront lots.

For waterfront lots a 25 foot vegetation buffer shall be retained from the high water mark of Fernan Lake at elevation 2,131.37 (Kootenai County site disturbance ordinance).

Evaluation: As indicated on the preliminary plat and PUD plan, tract "A" will remain as open space and the remainder lot 8 will remain undeveloped thus, assuring that the natural vegetation along the shoreline will be retained.

5. Fernan Lake Planning Area

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.

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.

A. 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.

Evaluation: The hydrology and Geotechnical studies have been submitted as part of the application and reviewed by the City Engineer.

B. 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.

Evaluation: There are no roads, driveways or rights-of-way within 75 feet of Fernan Lake.

2. Construction within seventy five feet (75') of the high water mark shall be prohibited except for walkways, stairs, stairway landings and trams. 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.

Evaluation: As shown on the PUD plan, no construction is indicated within 75 feet of Fernan Lake.

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.

Evaluation: As indicated on map C2 (Areas of Disturbance), the average slope of the seven lots designated for development ranges between 17% and 36% and would be authorized through the PUD, thus meeting this requirement.

- D. **Finding #B8D: The location, design, and size of the proposal are such that the development (will) (will not) be adequately served by existing public facilities and services.**

See Preliminary plat finding #B8B.

- E. **Finding #B8E: The proposal (does) (does not) provide adequate private common open space area, as determined by the Commission, no less than 10% of gross land area, free of buildings, streets, driveways or parking areas. The common open space shall be accessible to all users of the development and usable for open space and recreational purposes.**

The subject property for the PUD is 7.03 acres and the required 10% open space requirement would be .7 acres free of buildings, streets, driveways, parking areas, swales and be accessible to all users of the development, and usable for open space and recreational purposes.

There is 4.41 acres or +/- 62% of the PUD parcel, that qualifies as open space. The applicant's narrative indicates that, because of the steep topography and dense vegetation, the recreational uses are limited and that the primary goal is to utilize the open space for wildlife movement and preservation of views and vistas. They also indicate that there are a few existing wildlife trails that may be used by the more vigorous hiker homeowners.

Evaluation: The Planning Commission must determine that the open space is accessible to all users of the development and usable for open space and recreational purposes.

- F. **Finding #B8F: Off-street parking (does) (does not) provide parking sufficient for users of the development.**

The single-family residential parking requirement is two spaces per dwelling unit.

Evaluation: Two parking spaces per dwelling would be required with compliance at time of building permit issuance. In addition, four visitor parking spaces are shown on the PUD plan.

- G. **Finding #B8G: That the proposal (does) (does not) provide for an acceptable method for the perpetual maintenance of all common property.**

A homeowner's association will own, operate and be responsible for the maintenance of all common open space areas.

Pursuant to Section 17.07.235 of the Planned Unit Development Regulations, "the Planning Commission can require the formation of a homeowners association to perpetually maintain all open space areas. The association shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain the open space. The association shall perpetually exist and can only be terminated by a majority vote of the members and consent of the City Council shall terminate it".

Evaluation: As a condition of approval of the PUD, the Planning Commission should require the formation of a property owners association to ensure the maintenance of all common open space areas.

H. **Finding #B8H: That the proposal (would) (would not) adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character (and) (or) existing land uses.**

The proposed development would create seven single-family lots on a 2.7 acre portion of the 22.2 acre subject property with the remaining acreage (19.5 acres-88% of total parcel) undeveloped. The surrounding land uses are single-family dwellings or vacant undeveloped land.

Evaluation: The proposed development appears to be compatible with the surrounding uses and would not adversely impact traffic on adjoining streets.

Preliminary Plat Findings:

A. **Finding #B8A: That all of the general preliminary plat requirements (have) (have not) been met, as attested to by the City Engineer.**

Per Gordon Dobler, City Engineer, the preliminary plat submitted contains all of the general information required by Section 16.12.020 of the Municipal Code, General Requirements.

B. **Finding #B8B: That the provisions for streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, and utilities (are) (are not) adequate where applicable.**

SEWER:

Sanitary sewer is available and adequate to serve the proposed subdivision. The sanitary sewer main is located in an existing twenty five foot (25') easement (Instrument #1145647) over and across portions of proposed "Tract A" and Lots 1 and 2. Also, the existing sewer dosing siphon that serves Armstrong Park subdivision is available for connection to the 7 lots, as shown.

Evaluation: 1. The existing easement and utilities must be kept free and clear of all permanent structures, encroachments and obstructions. Any improvements installed in the easement, other than grass or sod, will be the responsibility of the lot owner to remove/replace if utility work is necessary in the easement area.

2. The Applicant's proposal has the public sewer dosing tank beneath the private roadway which, is appropriate in most cases, but Wastewater has concerns that the pre-existing tank was not built to support the cement trucks, asphalt paving equipment...etc. needed through out the life of this subdivision. Wastewater would suggest that the tank structure be reviewed and certified to handle the live loads mentioned above (to H-20) with an appropriate engineer for this review at no expense to the City of Coeur d'Alene. If the tank can not be certified for this load bearing, the applicant must upgrade the tank to meet this criterion, at no expense to the City of Coeur d'Alene.
3. The applicant's proposed subdivision contains within its boundaries an existing public sewer system that can not be easily moved, does not have dedicated space for installation of appropriate odor control facilities and, because of the close proximity of this lift station to the proposed subdivision, there should be included in the CCR'S language that give all future property owners adequate notice to make them aware of potential odors from the existing public sewer facilities.

WATER:

City water is available to the proposed subdivision. However, the new water main connection to the existing line in Potlatch Hill Road is shown in a ten foot (10') easement.

Evaluation: There is an existing water main located in Potlatch Hill Road/Sky Harbor Drive at Armstrong Drive that must be extended to the subject property in order to obtain service for domestic and fire protection services. This line will be extended at no cost to the City. Also, there is a high pressure water main situated in the previously noted twenty five foot (25') easement that must be kept free and clear of all structures, encroachments or obstructions. Any single utility is required to be centered in a twenty foot (20') easement and thirty foot (30') easements are required for dual utilities. All utilities are required to have a minimum horizontal separation distance of ten feet (10').

STORMWATER:

City Code requires a stormwater management plan to be submitted and approved prior to any construction activity on the site. A stormwater management concept has been proposed utilizing two (2) rock lined channels with check dams to retard the runoff flow downhill with general dispersion down slope at the terminus of the channel. No detailed analysis has been presented to determine the viability of the proposal and any solution to drainage issues on the subject property must be designed so there is no net increase in site runoff entering into the adjacent Fernan Lake.

Evaluation: In addition to meeting the standards established in Section 17.08.940 "Sensitive Surface Waters" of the City's Hillside Ordinance #3091, any stormwater facilities for the subject development must meet the following criteria:

- A. Developed site flows must be detained and may be metered out in quantities that do not result in any erosion or other detrimental

impact to the existing hillside or Fernan Lake. Concentrated flows will not be allowed to be generated and released from the developed site.

- B. Overland hillside flow cannot exceed the pre-developed flow quantities from the subject property.
- C. Drainage flows cannot be diverted into new channels that result in an increase to the overall downhill flow quantity.
- D. Any detention basin or structure must be accessible to allow for periodic maintenance or reconstruction if necessary. Easements for access and maintenance must be placed on the final plat document to ensure that ability.
- E. Any stormwater facilities that are constructed must be free and clear of any existing subsurface utilities (sewer, water, power, etc.), in the event that maintenance of the existing subsurface facilities is required that would result in damage to the stormwater drainage channels or structures.
- F. Any drainage plan for the subject property must also adhere to the "Storm and Surface Water Drainage" section of the site geotechnical evaluation report submitted by ALLWEST, dated April 25, 2007.
- G. The homeowners association will be required to maintain all stormwater drainage facilities serving the subject property. This will be required to be a component of any CC&R's for the subject development.
- H. Silt fence will be required to be installed around any/all construction sites. Silt fencing will be required to be installed prior to the commencement of site disturbance, with approval of the installation by the City Inspector prior to any activity on-site. All fencing will be required to be maintained throughout the construction period until vegetation is of sufficient developed nature to serve as a natural barrier to erodible forces.

TRAFFIC:

The ITE Trip Generation Manual estimates the project will generate approximately 6.3 trips per day during the peak hour periods (7-9 A.M. & 4-6 P.M. utilizing an average peak hour rate of 0.90).

Evaluation: The adjoining street will accommodate the additional traffic volume. Although the intersection of Potlatch Hill Road and Coeur d'Alene Lake Drive is the sole point of ingress/egress to the proposed development, the number of peak hour trips should not have any impact on the overall traffic flows or intersection.

STREETS:

1. The proposed subdivision is adjacent to Potlatch Hill Road/Sky Harbor Drive.

Evaluation: The subject property does not directly front on Potlatch Hill Road due to an intervening portion of right-of-way that is under the control of the Idaho Transportation Department. Written permission to access the subject property from the existing Potlatch Hill Rd., across the intervening ITD parcel, will be required to be furnished prior to final plat approval or the construction of any improvements on the property.

2. Proposed internal street width of twenty six feet (26') is less than the thirty six foot (36') City standard and the internal street is proposed as a private street.

Evaluation: Approval of the less than standard street width and private street is required through the PUD.

This deviation would be acceptable in order to limit the size of "cut" on the hillside and the visual impact of the roadway. However, no parking will be allowed on the roadway due to the narrow width and the need for 26 feet of clear width for fire truck and emergency vehicle access.

3. The internal roadway deviates from the typical "crowned" street section that is utilized on roads constructed within the City and makes use of a "shed" section. This type of section will facilitate the movement of drainage to one side of the roadway; however, final design will require approval of the City Engineer. This proposed roadway section is also utilizing sidewalk on one side of the roadway, which must be approved through the PUD.

Evaluation: Due to the limited nature of the street in regard to length, number of residences accessed and hillside restrictions, the "shed" section with sidewalk on the northerly side would be acceptable. Final design approval from the City Engineer will be required.

4. The proposed development has one section of roadway that rises at 8.0%.

Evaluation: This is the maximum amount of slope allowed for roads within the City (City Code 16.20.100). Roadway grade in excess of the 8.0% will not be allowed.

SUBDIVISION REQUIREMENTS:

1. Lot frontages on proposed lots 1 & 5 (20' & 37.3' respectively) are less than the minimum 75.0' required. A deviation will need to be approved either through the proposed PUD.
2. All development on the subject property must adhere to the City's Hillside Ordinance #3091.
3. Formation of a homeowners association will be required and CC&R's will need to be submitted for review prior to final plat approval. Specific site improvements that will be required in the CC&R's are:
 - A. general roadway maintenance, including but not limited to, cleaning, snow plowing, upkeep and reconstruction.
 - B. no changes or alterations to the completed roadway section without prior approval of the established homeowners association and the City Engineer.

4. The private thirty three foot (33') roadway section shall be shown as a "Tract" on the final plat document with an inclusive easement that details the ingress/egress for all platted lots.

APPLICABLE CODES AND POLICIES:

UTILITIES

1. All proposed utilities within the project shall be installed underground.
2. All water and sewer facilities shall be designed and constructed to the requirements of the City of Coeur d'Alene. Improvement plans conforming to City guidelines shall be submitted and approved by the City Engineer prior to construction.
3. All water and sewer facilities servicing the project shall be installed and approved prior to issuance of building permits.
4. All required utility easements shall be dedicated on the final plat.

STREETS

5. All new streets shall be constructed to City of Coeur d'Alene standards.
6. Street improvement plans conforming to City guidelines shall be submitted and approved by the City Engineer prior to construction.
7. All required street improvements shall be constructed prior to issuance of building permits.
8. An encroachment permit shall be obtained prior to any work being performed in the existing right-of-way.

STORMWATER

9. A stormwater management plan shall be submitted and approved prior to start of any construction. The plan shall conform to all requirements of the City.

GENERAL

10. The final plat shall conform to the requirements of the City.
Submitted by Chris Bates, Project Manager

PARKS:

Doug Eastwood, Parks Director was contacted and had no response.

FIRE:

The Fire Department will address issues such as water supply, fire hydrants, Fire department access, etc., prior to any site development.

Submitted by Dan Cochran, Deputy Fire Chief

POLICE:

I have no comments at this time.

Submitted by Steve Childers, Captain, Police Department

C. **Finding #B8C: That the preliminary plat (is) (is not) in conformance with the Comprehensive Plan as follows:**

See Finding #B8A in Planned Unit Development Findings.

D. **Finding #B8D: That the public interest (will) (will not) be served.**

The subject property is within the corporate limits and will create an 8-lot single-family subdivision on a private street and provide an opportunity to preserve the remaining 19.5 acres in an undeveloped natural state.

Evaluation: The Planning Commission must determine, based on the information before them, whether the request will or will not serve the public interest. Specific ways in which this request does or does not should be stated in the finding.

E. **Finding #B8E: That all of the required engineering elements of the preliminary plat (have) (have not) been met, as attested to by the City Engineer.**

A preliminary utility design was submitted indicating that all proposed lots could be served.

F. **Finding #B8F: That the lots proposed in the preliminary plat (do) (do not) meet the requirements of the applicable zoning district.**

The subject property is zoned R-3 and will not change with this request. Residential uses allowed in this zone include single-family dwellings at 3units/acre. The applicant is requesting 7 single-family lots with a residential density of 3.2 units per gross acre, which is lower than the 2.5 acres per unit density required by the Hillside Ordinance for parcels located within 500 feet of Fernan Lake.

If the requested PUD is approved, a new set of development standards would be created for the Lake Fernan Heights PUD, as follows:

Zoning Ordinance:

1. Zero street frontage for all lots.
(This is required because the development is on a private street.)
2. Reduce building setbacks:
Front yard – To 4-feet from 20-feet
Rear yard – To 13-feet from 25-feet
3. Reduce required 20-foot driveway length from street property line to 13-feet from 20-feet
4. Required street trees for single-family lots.

Subdivision Ordinance:

1. Private street with reduced street standards, as follows:

26 foot street with standard curbs and a 5-foot sidewalk on one side in a 33-foot right-of-way.

(The standard street is 60-feet of right-of-way, 36-foot wide paved street with curb, gutter and 5-foot sidewalks and swales on both sides)

2. Modify dead-end street or cul-de-sac requirements to allow a turn-around, as shown in detailed development plan. Sheet (C1)

Evaluation: The Planning Commission must determine if the new set of standards requested through the PUD are appropriate in the R-3 zoning district.

G. **Finding #B9: That the proposal (would) (would not) adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character, and existing land uses.**

See PUD finding B8H.

H. Proposed conditions:

Planning

1. Formation of a homeowners association with CC&R's that includes detailed maintenance responsibilities of all private infrastructure (roads, drainage structures, street lighting, and all open space areas etc.), prior to recordation of the final plat.

Engineering

2. The existing easement and utilities must be kept free and clear of all permanent structures, encroachments and obstructions.
3. There is an existing waterline located in Potlatch Hill Road/Sky Harbor Drive at Armstrong Drive that must be extended to the subject property in order to obtain service for domestic and fire protection services. This line will be extended at no cost to the City.
4. Any single utility is required to be centered in a twenty foot (20') easement and thirty foot (30') easements are required for dual utilities. All utilities are required to have a minimum horizontal separation distance of ten feet (10').
5. Developed site flows must be detained and may be metered out in quantities that do not result in any erosion or other detrimental impact to the existing hillside or Fernan Lake.
6. Concentrated flows will not be allowed to be generated and released from the developed site.
7. Any detention basin or structure must be accessible to allow for periodic maintenance or reconstruction if necessary. Easements for access and maintenance must be placed on the final plat document to ensure that ability.

8. Any stormwater facilities that are constructed must be free and clear of any existing subsurface utilities (sewer, water, power, etc.), in the event that maintenance of the existing subsurface facilities is required that would result in damage to the stormwater drainage channels or structures.
9. Any drainage plan for the subject property must also adhere to the "Storm and Surface Water Drainage" section of the site geotechnical evaluation report submitted by ALLWEST, dated April 25, 2007.
10. Silt fence will be required to be installed around any/all construction sites. Silt fencing will be required to be installed prior to the commencement of site disturbance, with approval of the installation by the City Inspector prior to any activity on-site. All fencing will be required to be maintained throughout the construction period until vegetation is of sufficient developed nature to serve as a natural barrier to erodible forces.
11. Written permission to access the subject property from the existing Potlatch Hill Rd., across the intervening ITD parcel, will be required to be furnished prior to final plat approval or the construction of any improvements on the property.
12. No parking will be allowed on the proposed internal roadway due to the narrow width.
13. Final design approval from the City Engineer will be required for the "shed" section roadway design and road grades in excess of 8.0% will not be allowed.
14. All development on the subject property must adhere to the City's Hillside Ordinance #3091.
15. Formation of a homeowners association will be required and CC&R's must contain sections that address private roadway maintenance and potential reconstruction.
16. All open space and private rights-of-way shall be shown as "tracts" on the plat document and must contain easements for access.

Wastewater

17. Review and certification of the tank structure to handle live loads (to H-20) with an appropriate engineer for this review at no expense to the City of Coeur d'Alene. If the tank can not be certified for this load bearing, applicant must upgrade the tank to meet this criterion at no expense to the City of Coeur d'Alene.
18. There be language in the CC&R's of Lake Fernan Heights subdivision that give all future property owners adequate notice to make them aware of potential odors from the existing public sewer facilities. The language shall be reviewed and approved by the City Engineer, prior to approval of the Lake Fernan Heights final plat.

I. Ordinances and Standards Used In Evaluation:

Comprehensive Plan - Amended 1995.
 Transportation Plan
 Municipal Code.
 Idaho Code.
 Wastewater Treatment Facility Plan.
 Water and Sewer Service Policies.
 Urban Forestry Standards.
 Transportation and Traffic Engineering Handbook, I.T.E.

Manual on Uniform Traffic Control Devices.
Coeur d'Alene Bikeways Plan
Kootenai County Assessor's Department property records

ACTION ALTERNATIVES:

Staff recommends the City Council take the following action:

The City Council must consider this request and make appropriate findings to approve, deny or deny without prejudice. The findings worksheet is attached.

If the Council approves the request, they may adopt the Planning Commission findings, create their own findings or use some of the Planning Commission findings and some of their own findings.

If the Council denies the request, a new set of findings must be made.

Lake Fernan Heights

A Planned Unit Development
Coeur d'Alene, Idaho

Overall Project Description

Lake Fernan Heights is a proposed planned unit development (PUD) which has been developed to finance the preservation of 47 acres of hillside along the south shore of Fernan Lake in the City of Coeur d'Alene, while creating a 7 acre PUD on the balance of the 54 acre parcel. The 7 acre PUD will contain 4.7 acres of open space.

The owners of the property are citizens of Fernan Village. Their wish in the development of the Lake Fernan Heights PUD is to sell the minimal amount of developed property in order to pay for a substantial portion of the existing debt on the 54-acre parcel. In the proposed configuration, the proposed Lake Fernan Heights PUD will provide for 7 single-family residential lots, covering approximately 2.3 acres. In total, the proposed Lake Fernan Heights PUD encompasses 7.0 acres, with the 4.7-acre balance to remain as Open Space. It is hoped that the seven residences will produce sufficient capital as needed to assure preservation of the remaining property.

The proposed Lake Fernan Heights PUD was structured such that it would be compliant with the City's ordinances pertaining to Hillside Overlay Zone (CDA Code Title 17, Sections 17.08.900 through 17.08.945); Fernan Lake Planning Area (CDA Code Title 17, Section 17.08.943) and Sensitive Surface Waters (CDA Code Title 17, Section 17.08.940). Further, as you are aware, the PUD process allows for considerable flexibility and affords the developer and nearby residents to obtain a substantially better end-product and further provides for preserving the majority of the virgin hillside. As being proposed under the proposed Lake Fernan Heights PUD, exceptions to City Ordinances are being sought for the intentions of both minimizing the areas of disturbance and preserving the Fernan Lake hillside.

The proposed PUD includes 7 homes designed and placed according to the existing natural topography. The locations of these 7 home sites were determined to be the least disruptive to the hillside and the least visible from Fernan Village. The requirements for road width and grade along with fire access have determined the proposed access points. Property lines were drawn after the pads for the homes were established. The landmarks visible from the proposed PUD begin with the Floating Green (Coeur d'Alene Resort Golf Course) to Tubbs Hill to downtown Coeur d'Alene and Mt. Spokane to Lake Fernan and the National Forest properties to the east. The proposed structures will be visible from I-90. Great care has been taken to reduce the impact of the structures to the skyline. To this end, the proposed floor plans have living and bedroom levels below the garage floor levels. This makes for an unusual floor plan configuration, but it brings the floor plates to the existing grades and eliminates the look of "stilts" commonly associated with hillside homes.

Exterior materials will be the same for all seven units to give a consistent look. Color and texture of roofing and wall surfaces will be dark with the primary goal to look as natural as possible. It is not the Owner's intention for these homes to stand out at all when viewed from Fernan Village or the City of Coeur d'Alene. Lights from the homes

at night will be minimized by creating view windows that are clusters of smaller windows instead of large sheets of panoramic glass.

Because of the Owner's consideration for having the houses hug the hillside as low as possible, access will be from the top down and all of the homes will be equipped with residential elevators. The proposed water booster station facilities will require an above-ground maintenance building, which is duly illustrated on the preliminary drawings. Construction of said building will be from the same materials as the homes, with roof pitches and details to match.

Not to be over-stated, but, the primary focus of this proposed development is to blend into the topography's natural surroundings. The Lake Fernan Heights PUD residual property is proposed to remain as undisturbed open space instead of attempting to create useable open space. The steep topography and dense vegetation limit the recreational uses of the open space and the Owner's primary goal is to utilize the open space for wildlife movement and preservation of views, vistas. There are few existing wildlife trails that may be used by the more vigorous hiker-homeowners.

Utilities

Water and sanitary sewer utilities will be provided by extensions of the City's current systems. Existing sanitary sewer utilities adjoin the Lake Fernan Heights property, allowing for easy access. A portion of the proposed private roadway, within Lake Fernan Heights, will be constructed over and adjacent to the City's existing sewer dosing station. Adjustments, both cosmetic and structural, will be evaluated during the detailed design phase of the project, in cooperation with City staff.

A City water transmission main also exists adjoining the Lake Fernan Heights property. However, due to insufficient water pressure, the City has asked that the Lake Fernan Heights development seek connection at Armstrong Park, which will require the extension of approximately 1,800 LF of 8" diameter water main, along and within Potlatch Hill Road/Sky Harbor Drive.

All other dry utilities will be provided via local providers.

Common Area Ownership

A homeowners association will be created to own and operate the common areas.



Applicant: Fernan Lake Preservation, LLC.
Location: Between Potlatch Hill Road and Fernan Lake,
Just west of Armstrong Park subdivision

Request:

- A. A proposed 7.03 acre PUD "Lake Fernan Heights" located in the R-3 (Residential at 3 units/acre) zoning district. QUASI-JUDICIAL (PUD-4-07)
- B. A proposed 22.20 acre 8-lot preliminary plat "Lake Fernan Heights" QUASI-JUDICIAL (S-7-07)

Associate Planner Stamosos presented the staff report, gave the mailing tally as 3 in favor, 27 opposed, and 1 neutral and answered questions from the Commission.

Commissioner Bowlby commented that she has a concern with the odors in the area and questioned how the applicant intends to inform future buyers of this problem.

Don Keil, Assistant Superintendent, City of Coeur d'Alene Wastewater Department, explained that the existing public sewer system is located in an area that can not be easily moved, and suggested that the developer provide language in the CC&RS warning of potential odors in the area.

Commissioner Bowlby inquired in the future if this problem can ever be solved.

Mr. Keil explained that the recommendations listed in the staff report with the PUD should help remedy the problem and commented that in the past he is not aware of any complaints from odors in the area.

Chairman Bruning inquired, before the hearing begins, if any Commissioners had a conflict of interest.

Commissioner Bowlby commented that she lives near Fernan Village and had recently received calls from neighbors wanting information about this project. She explained that she could not discuss the up-coming hearing because of a conflict and suggested that they call the City, or the applicant for the information they needed.

Public testimony open

Phil Boyd, applicant representative, 1626 Lincoln Way, Coeur d'Alene, presented a PowerPoint presentation explaining the project and then answered questions from the Commission.

Rann Haight, architect, P.O. Box 1752, Coeur d'Alene, explained that as he was the designer and that the, seven lots were chosen for these homes to have the best views possible, allowing the applicant the ability to pay off the remainder of the property from the sale of these homes. He added that the intent of the applicant is to build the minimal amount of homes leaving the remainder of the property untouched. He commented that staff has been very helpful with their input on the design of the project and feels if this project is approved, it will be a win/win for the developer and the City.

Pat Acuff, 112 Hazelwood Drive, Coeur d'Alene, gave a brief history of the project and how this project has been planned for 12 years. He commented that he agrees with the conditions listed in the staff report and feels if this project is approved it will be a quality project. He commented that he sympathizes with the feelings of the neighborhood that this land should not be developed, but feels that the number of homes proposed will not be much of an impact for the area. He added

that he feels this is the best design for this property, and if denied, another project maybe proposed in the future not as desirable as the one presented tonight.

Commissioner Bowlby questioned if the CC&R'S will contain the language for the construction of future docks and that when a dock is constructed, what the plans are there for a trail are leading to the dock.

Mr. Acuff commented that in the past there has been discussions for a dock, but feels that decision will be determined by the members of the Homeowner's Association and feels a trail should not be proposed because it would be to disruptive to the property.

Chairman Bruning inquired regarding the legal process allowing the 47 acres to remain as open space.

Mr. Acuff commented that he would like to donate the remaining 47 acres to the Parks Foundation and is seeking legal advice on how that process will work for the donation.

Art Flagan, 3250 Armstrong Court, Coeur d'Alene, commented that he is currently the president of the homeowner's association for Armstrong Park representing the people living in this development and they feel if this project is approved, will be a disservice for the people living in this area. He explained that in the past, there have been ongoing problems with the current water system and that these additional homes proposed will not help this current water situation. He added that he feels the private street proposed should be made a public street and built to City standards. He commented that the road proposed is to narrow.

Commissioner Bowlby commented that she understands the developer's intent for the use of a narrow street and explained that if a standard 36 foot street is constructed would disrupt the building envelopes proposed for the project.

Louis Garbrecht, 964 Armstrong Park, Coeur d'Alene, commented that he is concerned with how steep the hillside is, especially when traveling in the winter, as the guardrail has been hit many times. He added that this project is a complicated matter and should be continued for further discussion.

Michelle Garcia, 849 Centennial Court, Coeur d'Alene, commented that she is concerned that only a few people were notified about this project and feels that more time should be given before a decision is made. She explained that this project is incompatible with the area and agrees that the slopes are dangerous in the winter. She commented that Lake Fernan is a great place for area families to enjoy and needs to be protected.

Commissioner Messina questioned if staff could explain how people are notified for upcoming public hearings.

Senior Planner Stamos explained that notices are sent to people living within 300 feet of the subject property with the notice for the public hearing published twice in the paper.

Debra Verbillis, 212 Lakeview Drive, Coeur d'Alene, commented that she is opposed to the project and agrees further discussion is needed on the entire footprint before this project is approved. She added that she feels this parcel should be dedicated as part of a passive park preserve and does not comply with the Hillside Ordinance.

Kent Butler, 101 Theis Drive, Coeur d'Alene, commented that he is opposed since his home is directly behind this property. He commented that he has concerns that the different species of birds and wildlife in the area will not be protected and explained that in the past, the City of Fernan has been active in helping to preserve this area for those issues, and if this project is

approved these issues will be ignored. He agrees that further discussion is needed before a decision is made and commented that this is a small community and before there had been some representation, but that representation is gone since the Mayor of the City of Fernan is the person proposing this project.

Sue Bowser, 2203 E. Lakeside Avenue, Coeur d'Alene, commented that this project will have an environmental impact on the spawning beds in this area and questioned if this project is approved, if there will be a second phase for this project.

Jerry Garrett, 222 Lakeview Drive, Coeur d'Alene, commented that he is concerned with the location of this project as a potential fire hazard and explained when the winds blow from the west contribute to this problem. He added that he is not opposed to this project and feels the applicants are honorable men and will do a good job, but is concerned with this issue.

Virginia Tate, 4176 Potlatch Hill Road, Coeur d'Alene, commented that she lives directly in back of the applicant's property, and when Armstrong Park was proposed, a fire hydrant was to be placed at the corner of Sky harbor Drive and Potlatch Hill Road, which was never done. She added that she is not opposed to the project, but would like to meet with the developers to resolve this issue.

REBUTTAL:

Phil Boyd commented that after reviewing the site plan with staff, he found that even through the road will not be built to City standards; a safe road can be constructed. He addressed fire flow issues brought up in previous testimony and explained that after discussions with the City Water Department felt that water flows in this area were more than adequate to accommodate the seven homes proposed. He added that there is not a phase two proposed for this project and that the issues with the fire hydrants will be addressed with the applicant.

Chairman Bruning inquired regarding the distance from the lake to the property lot line.

Mr. Boyd commented that he would estimate the distance to be 400 feet.

Commissioner Rasor inquired if a dock is proposed in the future, will a trail also be proposed that would be used for people to get to the dock safely and help control erosion problems.

Mr. Boyd commented that it is the intent of the applicant to leave as much of the property untouched as possible including the construction of a trail.

Senior Planner Stamos commented that if the applicant proposed to put in a trail that request would have to come back for approval by the Planning Commission, since it is not shown on the site plan submitted for this PUD.

Commissioner Bowlby commented that the slopes in this area are steep and understands that widening the road will affect the building envelopes proposed for the project. She added that she has concerns with the amount of snow accumulated in the winter and questioned where the applicant intends to store the snow when removed from the property.

Mr. Boyd explained that since the street will be 26 feet wide, with six visitor parking spaces provided, that when not used for parking, that some of the extra space can be used for snow removal and storage.

Mr. Acuff explained the reason this property was considered for development is because the people who originally invested in the property long ago backed. This left only a few people who were interested in preserving the property but, they did not have enough money to buy the property. He added that the intent for this project is to develop the seven lots to provide a return

on their investment thus, making it feasible to preserve the remainder of the property in its natural state. He continued, that if this project is approved it, can be a win/win for the City, since a large part of this property will not be developed and continued to be used by the public.

Commissioner Bowlby inquired if some of the lots could be reduced for this project.

Mr. Acuff explained that the number of lots submitted is just enough to help cover the investment of the property, and the fees associated with the development including the construction of a water line that is expensive.

Commissioner Bowlby commented that she is also concerned with the potential of fires in this area and the need for additional fire hydrants if this project is approved. She added that if a dock is placed in the future that a trail should be constructed allowing people to access the dock.

Mr. Acuff commented that in the future if a dock and trail is considered than that decision will be made by future homeowners.

Chairman Bruning commented that two of the lots that are over the 35% slope grade and questioned how the applicant intends to work with these two lots.

Senior Planner Stamsos responded that the applicant would not be allowed to develop those without the PUD and explained that those lots over 35% are allowed as a deviation through the of PUD.

Public testimony closed.

DISCUSSION:

Commissioner Razor inquired if a condition should be added preventing a dock placed in the water.

Senior Planner Stamsos answered that docks are regulated by the Department of Lands and feels that this would be difficult to do.

Commissioner Bowlby commented that if this land is intended for public use, this would be hard to restrict.

Commissioner Razor commented that he feels a trail is needed before he could give approval for this request.

Commissioner Messina commented that if people know there is a dock in the water people will find a way to get to the dock with or without a trail.

Commissioner Bowlby commented that she is uncomfortable with two parcels and how steep they are and understands that any lots eliminated will cut into the profit needed by the applicant. She commented that she concurs from hearing previous testimony that narrow streets are a concern especially for snow removal.

Chairman Bruning commented that he prefers narrow streets over wide streets so bigger cuts are not allowed on the hillside.

Commissioner Bowlby commented that she is concerned with the odors and hopes in the future this problem can be resolved.

Senior Planner Stamos commented that in a past hearing for Mill River, people living in that area had concerns with odors and that the developer promised to disclose this issue with potential buyers.

Commissioner Jordan commented that the applicant is proposing seven lots with the remainder of the parcel given to the City as open space. He added that when Armstrong Park was approved it had issues similar to the ones heard tonight. He commented that he feels this will be a quality development and feels if this is not approved somebody may come back with a different proposal that will not be as generous as what is presented tonight. He commented that he feels this is a land use issue and a decision needs to be made based on that issue and is in favor of this request.

Chairman Bruning concurs with Commissioner Jordan, and added that when Armstrong Park was approved, the Hillside Regulations were not in affect and that for this project, those regulations will need to be met.

Motion by Jordan, seconded by Messina, to approve Item PUD-4-07. Motion approved.

ROLL CALL:

Commissioner Bowlby	Voted	Aye
Commissioner Jordan	Voted	Aye
Commissioner Messina	Voted	Aye
Commissioner Rasor	Voted	Nay

Motion to approve carried by a 3 to 1 vote.

Motion by Jordan, seconded by Messina, to approve Item S-7-07. Motion approved.

ROLL CALL:

Commissioner Bowlby	Voted	Aye
Commissioner Jordan	Voted	Aye
Commissioner Messina	Voted	Aye
Commissioner Rasor	Voted	Nay

Motion to approve carried by a 3 to 1 vote.

**COEUR D'ALENE PLANNING COMMISSION
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the Planning Commission on July 10, 2007, and there being present a person requesting approval of ITEM PUD-4-07 a request for a planned unit development known as "Lake Fernan Heights PUD".

LOCATION – +/- 22.2-acre parcel between Potlatch Hill Road and Lake Fernan, just west of Armstrong Park Subdivision

APPLICANT: Fernan Lake Preservation, LLC

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

- B1. That the existing land uses are residential - single-family and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition
- B3. That the zoning is R-3 (Residential at 3units/acre)
- B4. That the notice of public hearing was published on June 23, 2007, and July 3, 2007, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on July 2, 2007, which fulfills the proper legal requirement.
- B6. That 14 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on June 22, 2007, and 31 responses were received: 3 in favor, 27 opposed, and 1 neutral.
- B7. That public testimony was heard on July 10, 2007.
- B8. Pursuant to Section 17.07.230, Planned Unit Development Review Criteria, a planned unit development may be approved only if the proposal conforms to the following criteria to the satisfaction of the Planning Commission:
 - B8A. The proposal is in conformance with the Comprehensive Plan. This is based upon the following policies:
 - 4C: "New growth should enhance the quality and character of existing areas and the general community."

The applicant owns 54 acres overall but will develop only 7 residential lots. It is a sensitive area with water frontage on Fernan Lake, has very steep topography, views and vistas and this request will preserve most of that property in an undeveloped state.
 - 4C3: Population growth should be compatible with preserving Coeur d'Alene's character and quality of life."

The applicant owns 54 acres overall but will develop only 7 residential lots. It is a sensitive area with water frontage on Fernan Lake, has very steep topography, views and vistas and this request will preserve most of that property in an undeveloped state.

- 6A: "Promote the orderly development of land use at locations that are compatible with public facilities and adjacent land uses."

Utilities are adequate and the density is compatible with the surrounding area.

- 24C: "Natural vegetative cover should remain as a dominant characteristic of Coeur d'Alene."

The Hillside Ordinance and conditions of approval will ensure compliance with this policy.

- 24E: "The natural physical form of the Coeur d'Alene planning area should be preserved."

- 24E2 "Only land uses compatible with these visual resources should occupy them. Land uses to be encouraged are

- A. Open space
- B. Recreation

This request will preserve most of the acreage owned by the applicant.

- 51A: "Protect and preserve neighborhoods both old and new."

This request is compatible with the neighborhood and preserves the view corridors from the property.

- B8B. The design and planning of the site is compatible with the location, setting and existing uses on adjacent properties.

The dominant neighborhood is Armstrong Park and this development has a lower density than Armstrong Park. The use is compatible with view corridors and it will preserve open space.

- B8C 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 complements the visual character and nature of the city.

This is based on conditions that will ensure compliance with the Hillside Ordinance and the fact that there is no more likelihood of wildfire with this development than there is now.

- B8D The location, design, and size of the proposal are such that the development will be adequately served by existing streets, public facilities and services.

Water is available for fire flow, sewer is adequate and existing streets can handle the traffic from this development.

- B8E The proposal does provide adequate private common open space area, as

determined by the Commission, no less than 10% of gross land area, free of buildings, streets, driveways or parking areas. The common open space shall be accessible to all users of the development and usable for open space and recreational purposes.

This is based on the conditions imposed and testimony from the developer that no more than seven lots will be developed on the 54 acre property.

B8F Off-street parking will provide parking sufficient for users of the development.

This is based on the PUD plan that shows additional parking for visitors.

B8G That the proposal does provide for an acceptable method for the perpetual maintenance of all common property.

This is based on a condition that will be part of the approval.

B8H That the proposal would not adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character or existing land uses because it is a low density development, meets the City's goals for preserving views and vistas and fits the area for layout and appearance.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of FERNAN LAKE PRESERVATION, LLC for approval of the planned unit development, as described in the application should be approved.

Special conditions applied are:

Planning

1. Formation of a homeowners association with CC&R's that includes detailed maintenance responsibilities of all private infrastructure (roads, drainage structures, street lighting, and all open space areas etc.), prior to recordation of the final plat.

Motion by Jordan seconded by Messina to adopt the foregoing Findings and Order.

ROLL CALL:

Commissioner Bowlby	Voted Yea
Commissioner Jordan	Voted Yea
Commissioner Messina	Voted Yea
Commissioner Rasor	Voted No

Commissioner Souza was absent.

Motion to approve carried by a 3 to 1 vote.


CHAIRMAN JOHN BRUNING

**COEUR D'ALENE CITY COUNCIL
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the City Council on September 4, 2007, and there being present a person requesting approval of ITEM PUD-4-07 a request for a planned unit development known as "Lake Fernan Heights PUD".

LOCATION – +/- 22.2-acre parcel between Potlatch Hill Road and Lake Fernan, just west of Armstrong Park Subdivision

APPLICANT: Fernan Lake Preservation, LLC

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

(The City Council may adopt Items B1-through7.)

- B1. That the existing land uses are residential - single-family and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition
- B3. That the zoning is R-3 (Residential at 3 units/acre)
- B4. That the notice of public hearing was published on August 18, 2007 and August 28, 2007, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on August 24, 2007, which fulfills the proper legal requirement.
- B6. That 15 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on August 17, 2007, and _____ responses were received: ____ in favor, ____ opposed, and ____ neutral.
- B7. That public testimony was heard on September 4, 2007.
- B8. Pursuant to Section 17.07.230, Planned Unit Development Review Criteria, a planned unit development may be approved only if the proposal conforms to the following criteria to the satisfaction of the City Council

B8A. The proposal **(is) (is not)** in conformance with the Comprehensive Plan. This is based upon the following policies:

B8B. The design and site planning **(is) (is not)** compatible with existing uses on adjacent properties. This is based on

- | | |
|-------------------------------|----------------|
| Criteria to consider for B8B: | |
| 1. Density | 6. Open space |
| 2. Architectural style | 7. Landscaping |
| 3. Layout of buildings | |
| 4. Building heights & bulk | |
| 5. Off-street parking | |

B8C. The proposal **(is) (is not)** compatible with natural features of the site and adjoining properties. This is based on

- | | |
|-------------------------------|--------------------------------|
| Criteria to consider for B8C: | |
| 1. Topography | 3. Native vegetation |
| 2. Wildlife habitats | 4. Streams & other water areas |

B8D. The location, design, and size of the proposal are such that the development **(will) (will not)** be adequately served by existing public facilities and services. This is based on

Criteria to consider for B8D:

1. Is there water available to meet the minimum requirements for domestic consumption & fire flow?
2. Can sewer service be provided to meet minimum requirements?
3. Can the existing street system accommodate the anticipated traffic to be generated by this development?
4. Can police and fire provide reasonable service to the property?

B8E The proposal **(does) (does not)** provide adequate private common open space area, as determined by the Commission, no less than 10% of gross land area, free of buildings, streets, driveways or parking areas. The common open space shall be accessible to all users of the development and usable for open space and recreational purposes. This is based on

B8F Off-street parking **(does)(does not)** provide parking sufficient for users of the development. This is based on

B8G That the proposal **(does) (does not)** provide for an acceptable method for the perpetual maintenance of all common property. This is based on

B8H That the proposal **(would) (would not)** adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character **(and) (or)** existing land uses because

Criteria to consider for B8H:

1. Will the change in traffic flow adversely affect the livability of the surrounding neighborhood?
2. Does the proposed development "fit" with the surrounding area in terms of density, layout & appearance?
3. Is the proposed development compatible with the existing land use pattern? i.e. residential, commercial, residential w churches & schools

C. ORDER: CONCLUSION AND DECISION

The City Council, pursuant to the aforementioned, finds that the request of **FERNAN LAKE PRESERVATION, LLC** for approval of the planned unit development, as described in the application should be **(approved) (denied) (denied without prejudice)**.

Special conditions applied are:

Motion by _____ seconded by _____ to adopt the foregoing Findings and Order.

ROLL CALL:

Council Member Hassell	Voted _____
Council Member Edinger	Voted _____
Council Member Goodlander	Voted _____
Council Member McEvers	Voted _____
Council Member Reid	Voted _____
Council Member Kennedy	Voted _____

Mayor Bloem Voted _____ (tie breaker)

Council Member(s) _____ were absent.

Motion to _____ carried by a ____ to ____ vote.

MAYOR SANDI BLOEM

**COEUR D'ALENE PLANNING COMMISSION
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the Planning Commission on July 10, 2007, and there being present a person requesting approval of ITEM S-7-07: a request for preliminary plat approval of "Lake Fernan Heights", an 8-lot subdivision located in the R-3 (Residential at 3 units/acre) zoning district.

LOCATION – +/- 22.2-acre parcel between Pottlatch Hill Road and Lake Fernan, just west of Armstrong Park Subdivision

APPLICANT: Fernan Lake Preservation, LLC

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

- B1. That the existing land uses are residential - single-family and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition
- B3. That the zoning is R-3 (Residential at 3units/acre)
- B4. That the notice of public hearing was published on June 23, 2007, and July 3, 2007, which fulfills the proper legal requirement.
- B5. That the notice was not required to be posted on the property.
- B6. That 14 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on June 22, 2007, and 31 responses were received: 3 in favor, 27 opposed, and 1 neutral.
- B7. That public testimony was heard on July 10, 2007.
- B8. Pursuant to Section 16.10.030A.1, Preliminary Plats: In order to approve a preliminary plat, the Planning Commission must make the following findings:
 - B8A. That all of the general preliminary plat requirements have been met as attested to by the City Engineer.

This is based on the staff report and conditions of approval.
 - B8B. That the provisions for streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, and utilities are adequate where applicable.

This is based on conditions of approval and ordinance requirements.
 - B8C. That the preliminary plat is in conformance with the Comprehensive Plan as follows:
 - 4C: "New growth should enhance the quality and character of existing areas and the general community."

The applicant owns 54 acres overall but will develop only 7 residential lots. It

is a sensitive area with water frontage on Fernan Lake, has very steep topography, views and vistas and this request will preserve most of that property in an undeveloped state.

4C3: Population growth should be compatible with preserving Coeur d'Alene's character and quality of life."

The applicant owns 54 acres overall but will develop only 7 residential lots. It is a sensitive area with water frontage on Fernan Lake, has very steep topography, views and vistas and this request will preserve most of that property in an undeveloped state.

6A: "Promote the orderly development of land use at locations that are compatible with public facilities and adjacent land uses."

Utilities are adequate and the density is compatible with the surrounding area.

24C: "Natural vegetative cover should remain as a dominant characteristic of Coeur d'Alene."

The Hillside Ordinance and conditions of approval will ensure compliance with this policy.

24E: "The natural physical form of the Coeur d'Alene planning area should be preserved."

24E2: "Only land uses compatible with these visual resources should occupy them. Land uses to be encouraged are:

- A. Open space
- B. Recreation

This request will preserve most of the acreage owned by the applicant.

51A: "Protect and preserve neighborhoods both old and new."

This request is compatible with the neighborhood and preserves the view corridors from the property.

B8D. That the public interest will be served.

It conforms to the comprehensive plan, is orderly growth, compatible with the surrounding area, utilities are available, property rights are protected and is a reasonable trade off in order to preserve land with views and vistas.

B8E. That all of the required engineering elements of the preliminary plat have been met, as attested to by the City Engineer.

This is based on the staff report.

B8F. That the lots proposed in the preliminary plat do meet the requirements of the applicable zoning district for the following reasons:

Minimum lots sizes for the R-3 zone are met and it meets the density requirements of the Hillside Ordinance.

B9. That the proposal would not adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character, and existing land uses because the streets are adequate, traffic is minimal and the use is compatible in appearance with the area.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of FERNAN LAKE PRESERVATION, LLC for preliminary plat of approval as described in the application should be approved.

Special conditions applied to the motion are:

Engineering

2. The existing easement and utilities must be kept free and clear of all permanent structures, encroachments and obstructions.
3. There is an existing waterline located in Pottlatch Hill Road/Sky Harbor Drive at Armstrong Drive that must be extended to the subject property in order to obtain service for domestic and fire protection services. This line will be extended at no cost to the City.
4. Any single utility is required to be centered in a twenty foot (20') easement and thirty foot (30') easements are required for dual utilities. All utilities are required to have a minimum horizontal separation distance of ten feet (10').
5. Developed site flows must be detained and may be metered out in quantities that do not result in any erosion or other detrimental impact to the existing hillside or Fernan Lake.
6. Concentrated flows will not be allowed to be generated and released from the developed site.
7. Any detention basin or structure must be accessible to allow for periodic maintenance or reconstruction if necessary. Easements for access and maintenance must be placed on the final plat document to ensure that ability.
8. Any stormwater facilities that are constructed must be free and clear of any existing subsurface utilities (sewer, water, power, etc.), in the event that maintenance of the existing subsurface facilities is required that would result in damage to the stormwater drainage channels or structures.
9. Any drainage plan for the subject property must also adhere to the "Storm and Surface Water Drainage" section of the site geotechnical evaluation report submitted by ALLWEST, dated April 25, 2007.
10. Silt fence will be required to be installed around any/all construction sites. Silt fencing will be required to be installed prior to the commencement of site disturbance, with approval of the installation by the City Inspector prior to any activity on-site. All fencing will be required to be maintained throughout the construction period until vegetation is of sufficient developed nature to serve as a natural barrier to erodible forces.
11. Written permission to access the subject property from the existing Pottlatch Hill Rd., across the intervening ITD parcel, will be required to be furnished prior to final plat approval or the construction of any improvements on the property.
12. No parking will be allowed on the proposed internal roadway due to the narrow width.
13. Final design approval from the City Engineer will be required for the "shed" section roadway design and road grades in excess of 8.0% will not be allowed.

14. All development on the subject property must adhere to the City's Hillside Ordinance #3091.
15. Formation of a homeowners association will be required and CC&R's must contain sections that address private roadway maintenance and potential reconstruction.
16. All open space and private rights-of-way shall be shown as "tracts" on the plat document and must contain easements for access.

Wastewater

17. Review and certification of the tank structure to handle live loads (to H-20) with an appropriate engineer for this review at no expense to the City of Coeur d'Alene. If the tank can not be certified for this load bearing, applicant must upgrade the tank to meet this criterion at no expense to the City of Coeur d'Alene.
18. There be language in the CC&R's of Lake Fernan Heights subdivision that give all future property owners adequate notice to make them aware of potential odors from the existing public sewer facilities. The language shall be reviewed and approved by the City Engineer, prior to approval of the Lake Fernan Heights final plat.
19. The City Engineer analyze any safety requirements, such as a left turn lane, at the intersection of the street into the subdivision and Potlatch Hill Road.

Motion by Jordan seconded by Messina to adopt the foregoing Findings and Order.

ROLL CALL:

Commissioner Bowlby	Voted Yea
Commissioner Jordan	Voted Yea
Commissioner Messina	Voted Yea
Commissioner Razor	Voted No

Commissioner Souza was absent.

Motion to approve carried by a 3 to 1 vote


 CHAIRMAN JOHN BRUNING

**COEUR D'ALENE CITY COUNCIL
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the City Council on September 4, 2007, and there being present a person requesting approval of ITEM S-7-07: a request for preliminary plat approval of "Lake Fernan Heights", a 8 -lot subdivision located in the R-3 (Residential at 3 units/acre zoning district.

LOCATION – +/- 22.2-acre parcel between Potlatch Hill Road and Lake Fernan, just west of Armstrong Park Subdivision

APPLICANT: Fernan Lake Preservation, LLC

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

(The City Council may adopt Items B1-through7.)

- B1. That the existing land uses are residential - single-family and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition
- B3. That the zoning is R-3 (Residential at 3 units/acre)
- B4. That the notice of public hearing was published on August 18, 200 and August 28, 2007, which fulfills the proper legal requirement.
- B5. That the notice was not required to be posted on the property.
- B6. That 15 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on August 17, 2007, and _____ responses were received: ____ in favor, ____ opposed, and ____ neutral.
- B7. That public testimony was heard on September 4, 2007.
- B8. Pursuant to Section 16.10.030A.1, Preliminary Plats: In order to approve a preliminary plat, the City Council must make the following findings:

B8A. That all of the general preliminary plat requirements **(have) (have not)** been met as attested to by the City Engineer. This is based on

B8B. That the provisions for streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, and utilities **(are) (are not)** adequate where applicable. This is based on

B8C. That the preliminary plat **(is) (is not)** in conformance with the Comprehensive Plan as follows:

B8D. That the public interest **(will) (will not)** be served based on

Criteria to consider for B8D:

1. Does this request achieve the goals and policies of the comp plan?
2. Does it provide for orderly growth and development that is compatible with uses in the surrounding area?
3. Does it protect the public safety by providing adequate public utilities and facilities to mitigate any development impacts?
4. Does the it protect and preserve the natural beauty of Coeur d'Alene?
5. Does the it have a positive impact on Coeur d'Alene's economy?
6. Does it protect property rights and enhance property values?

B8E. That all of the required engineering elements of the preliminary plat **(have) (have not)** been met, as attested to by the City Engineer. This is based on

B8F That the lots proposed in the preliminary plat **(do) (do not)** meet the requirements of the applicable zoning district for the following reasons:

Criteria to consider for B8F:

1. Do all lots meet the required minimum lot size?
2. Do all lots meet the required minimum street frontage?
3. Is the gross density within the maximum allowed for the applicable zone?

B9. That the proposal **(would) (would not)** adversely affect the surrounding neighborhood at this time with regard to traffic, neighborhood character, and existing land uses because

Criteria to consider for B9:

1. Can the existing street system support traffic generated by this request?
2. Does the density or intensity of the project "fit" the surrounding area?
3. Is the proposed development compatible with the existing land use pattern? i.e. residential, commercial, residential w churches & schools etc.
4. Is the design and appearance of the project compatible with the surrounding neighborhood?

C. ORDER: CONCLUSION AND DECISION

The City Council pursuant to the aforementioned, finds that the request of **FERNAN LAKE PRESERVATION, LLC** for preliminary plat of approval as described in the application should be **(approved) (denied) (denied without prejudice)**.

Special conditions applied to the motion are:

Motion by _____, seconded by _____, to adopt the foregoing Findings and Order.

ROLL CALL:

Council Member Hassell	Voted _____
Council Member Edinger	Voted _____
Council Member Goodlander	Voted _____
Council Member McEvers	Voted _____
Council Member Reid	Voted _____
Council Member Kennedy	Voted _____

Mayor Bloem Voted _____ (tie breaker)

Council Member(s) _____ were absent.

Motion to _____ carried by a ____ to ____ vote.

MAYOR SANDI BLOEM