

# Coeur d'Alene

# CITY COUNCIL MEETING

*June 18, 2013*

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## MEMBERS OF THE CITY COUNCIL:

**Sandi Bloem, Mayor**

**Councilmen Edinger, Goodlander, McEvers, Kennedy, Gookin, Adams**

# **CONSENT CALENDAR**

MINUTES OF A REGULAR MEETING OF THE CITY  
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,  
HELD AT THE LIBRARY COMMUNITY ROOM

June 4, 2013

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 Library Community Room June 4, 2013 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor (via telephone)

Woody McEvers	)	Members of Council Present
Dan Gookin	)	
Steve Adams	)	
Deanna Goodlander	)	
Loren "Ron" Edinger	)	
Mike Kennedy	)	

**CALL TO ORDER:** Mayor Bloem called the meeting to order via telephone and asked Council President Kennedy to officiate the meeting.

**INVOCATION:** Led by Pastor Charles Musoma, House of Prayer.

**PLEDGE OF ALLEGIANCE:** Councilman Edinger led the pledge of allegiance.

**PRESNTATION: US 95 INTERSECTION SAFETY IMPROVEMENTS:** Don Davis, Senior Transportation Planner with Idaho Transportation Department (ITD) District 1, stated that ITD has conducted a study of the US 95 corridor. The study provides an outline for future intersection improvement and clean up from recent major improvements. The 2003 corridor study was completed for the Coeur d'Alene area and included a westerly bypass (Huetter) suggestion. KMPO has been looking at the northerly Huetter corridor that includes the Ironwood to Upriver Drive area. The study is reviewing what conditions have changed in the area since the 2003 study. ITD will host an open house on June 25, 2013 in the Library Community Room to display current findings and seek public input. Additionally, Mr. Davis would like to hold a workshop with the City Council thereafter to discuss the feedback received.

**PRESNTATION: MCEUEN PARK CONSTRUCTION UPDATE** – This item was continued to the next Council meeting.

**CONSENT CALENDAR:** Motion by Edinger, seconded by Goodlander to approve the consent calendar as presented.

1. Approval of Minutes for May 20, 2013 and May 21, 2013.
2. Setting General Services and Public Works Committees meetings for Monday, June 10th at 12:00 noon and 4:00 p.m., respectively.

**3. CONSENT RESOLUTION NO. 13-032 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 AUTHORIZING THE MAYOR TO ISSUE A DECLARATION OF EMERGENCY FOR THE LANDINGS WELL PUMP REPLACEMENT AND DISPENSE WITH BID REQUIREMENTS FOR EMERGENCY PURCHASING OF ALL RELATED EQUIPMENT, MATERIALS, SUPPLIES, AND SERVICES AS ALLOWED BY SECTION 67-2808 OF THE IDAHO CODE; APPROVING AN ENCROACHMENT PERMIT TO ALLOW SEVENTH AND SHERMAN, LLC TO INSTALL LANDSCAPING AREAS ON THE SIDEWALK ON SEVENTH AVENUE; AND APPROVING AN AGREEMENT WITH HOLT SERVICES INC., FOR THE ATLAS 2 WELL PROJECT.**

- 4. Resolution No. 13-033** - Approval of accepting the Offer of Loan #1307 with Department of Environmental Quality from the Clean Water State Revolving Fund, and authorizing the Mayor to sign said offer.
5. Approval of the Downtown Association Sponsored Horse-drawn Carriage Rides during the month of August 2013.

**ROLL CALL:** Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye; Gookin Aye, Kennedy Aye. **Motion carried.**

#### **COUNCIL ANNOUNCEMENTS:**

Councilman Kennedy stated that he had discussed the public comments that had come forward at the last Council meeting from Ms. Harris with St. Vincent de Paul. He asked Mr. Bruning, Past Board President of St. Vincent de Paul, to come forward and provide a few comments. Mr. Bruning stated that Ms. Harris had brought forward concerns regarding the development on Homestead Avenue, as she is the neighbor directly to the west. Mr. Bruning explained that the applicants for this housing would be required to meet HUD regulations regarding proof of chronic mental illness and low-income status, and clarified that St. Vincent de Paul does not allow anyone with felony crimes related to sex offenses, violence, or crimes against children. He further explained that only half the residents would have vehicles. In regard to Ms. Harris' concern that the residents will have a view of her hot tub, there is only one room with a view to the hot tub and they plan to plant a large tree there to obscure the view. They reviewed the on-site lighting and agree with Ms. Harris that it is excessive. They have turned off the lights and have given direction to the contractor to fix the lights and leave them off until then. Additionally, they will plant large trees along the entire western boundary to shield her house from the facility. He extended an invite to tour the building at any time.

Councilman Edinger thanked Doug Eastwood and Bill Greenwood and all the cemetery staff for work in advance of the Memorial Weekend and noted that the cemetery looked great.

Councilman Adams asked if the City Attorney would cite the state code regarding the option for officials to participate via phone during a meeting, as the Mayor was doing this evening. Deputy City Attorney Warren Wilson stated that Idaho Code 67-2342 (5) under the open meeting law

section of the code allows for this option and read the code section. He stated that this meeting complies with the code.

**APPOINTMENTS:** The Mayor recommended the appointment of Al Hassell to the Lake City Development Corporation.

**MOTION:** Motion by Goodlander, seconded by McEvers to approve the appointment of Al Hassell to the Lake City Development Corporation.

**Motion carried** with Gookin and Adams voting No.

#### **RESOLUTION NO. 13-034**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE LEASE OF CITY PROPERTY AT 201 HARRISON AVENUE, COEUR D' ALENE, IDAHO TO ST. VINCENT DE PAUL OF NORTH IDAHO.

**MOTION:** Motion by Edinger, seconded by McEvers to adopt Resolution 13-034.

**DISCUSSION:** Councilman Gookin stated that he would be voting against this item, as he does not believe the City should be a landlord. Councilman Adams stated that he agreed that the City should not be a landlord and would vote against this item. Councilman Goodlander stated that the H.E.L.P. Center has been valuable for citizens to receive needed assistance in one location. Those in need used to have to travel around town to get the services they need. The Center allows for consolidation of services and she is in favor of this item. She believes it is a wonderful partnership.

**ROLL CALL:** Adams No; McEvers Yes; Goodlander Yes; Gookin No; Kennedy Yes; Edinger Yes. **Motion carried.**

#### **ORDINANCE 3466 COUNCIL BILL NO. 13-1011**

AN ORDINANCE ADOPTING A NEW CHAPTER TO THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO PROHIBIT DISCRIMINATION IN HOUSING, EMPLOYMENT AND PUBLIC ACCOMMODATIONS BASED UPON SEXUAL ORIENTATION AND GENDER IDENTITY/EXPRESSION AND PROVIDING THAT A VIOLATION OF THIS ORDINANCE IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE ARE SEVERABLE; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

**DISCUSSION:** The Council determined that public comment would be allowed for 3 minutes each. Councilman Kennedy stated that he would allow more time for Tony Stewart to speak as

the proponent of the item and that Pastor Van Noy will be allowed the same period of time to present the opposing viewpoint.

Mr. Stewart stated he would present this item with Christie Wood and Norm Gissel from the Kootenai County Task Force on Human Relations. He read a letter provided by the Coeur d'Alene Tribe written in support of the Ordinance. He stated that a question arose as to why Coeur d'Alene received national coverage on this item, as that was not the case for Boise and Ketchum. Mr. Gissel stated that in 1987 Bayard Rustin gave a speech in New York regarding Coeur d'Alene as they received a Raoul Wallenberg Civic Award for their action against the Neo-Nazis. The citizens of Coeur d'Alene demanded action when bombings occurred and a new culture was born in the community. Relationships with civil rights activists were born all around the world, which is why the Wall Street Journal was at the General Services Committee meeting. He stated that what Coeur d'Alene stands for and what it does goes far beyond its borders.

Man's inhumanity against man continues long after the civil rights movement, and he believes a better way to behave is to grant freedom to all. The City is a leader in civil rights matters and should act in leadership. Mr. Stewart and Ms. Wood reviewed the seven issues presented at the General Services Committee meeting. They reiterated that there are no federal or state laws protecting lesbian, bi-sexual, gay, and transgender (LGBT) persons outside of HUD housing and a Presidential order stating federal employees cannot be discriminated against; that there are several cases of discrimination and Ms. Wood gave three specific examples; there would not be additional costs to the City for law enforcement; waiting for federal and state action has taken over seven years and that they have been unable to get state legislative action; this Ordinance would protect employment, housing and public accommodation, equality, and does not create quotas, special rights or privileges, no undue burdens, exempts religious organizations and nonprofits and personal homes; and that it is a moral and democratic issue; and the decision will have an impact beyond the boundary of the community. Mr. Stewart stated that he had received a letter from the Hagadone Corporation yesterday regarding an email they received from a group out of Texas, who expressed concern regarding discriminatory actions taking place in the community. Ms. Wood stated that the legacy people leave is important as well as how human beings treat each other.

Pastor Van Noy stated that this is a community of love. He reminded the Council of the 15 statements he has published and presented previously, so he would not re-read them. He clarified that this is not a racial issue and that without this Ordinance the orthopedic organization has already agreed to travel to the city. He read a letter he wrote addressing the City Council reiterating that the Ordinance would provide protection for one group while infringing on the rights of others. He upholds traditional values and moral standards and he does not see a need for the Ordinance as no lawsuits have been filed. The three cases of discrimination presented do not have verifiable facts. This Ordinance would be a slippery slope into lawsuits and would cause endorsement rather than tolerance. The homosexual lifestyle is rejected by the three largest religions. He believes this to be an orchestrated and intentional process and infringes on the First and Fourteenth Amendment Rights of every American. This Ordinance does not protect the rights of religious persons. He provided examples of who would be in violation of this ordinance. The Ministerial Association represents thousands of people throughout the community. They will do everything to hold back the plans of those in contradiction with the

Bible, and noted that they are not homophobic but disdain what harms people and asked the Council to vote no on this Ordinance.

Councilman Gookin asked Mr. Wilson if the Ordinance would prohibit a private hotel owner from renting to a LBGT person. Mr. Wilson stated that would be correct, as the Ordinance applies to employment, housing, and public accommodations (restaurants, hotels, etc.). In that event a person could make a complaint to the City who would investigate. Councilman Gookin asked if that would also apply to health clubs. Mr. Wilson clarified that it would apply and the same process of filing a complaint would apply.

Mr. Van Noy stated that the Coeur d'Alene Police Department faced this issue directly regarding a Steven to Stephanie transition and had an issue with use of the public bathrooms. Currently a Washington state health club is facing an issue with a locker room and he reiterated that sodomy is still a crime in the State of Idaho. Mr. Wilson stated that the Supreme Court has struck that law down, so even though it is still on the books it is not enforceable. Councilman Kennedy clarified that using the hotel example a homosexual could be turned down; however, if they turned down a person that was Irish (such as himself), the Irish person would be protected.

Councilman Kennedy opened public comment and reiterated the three-minute per person time limit.

#### **PUBLIC COMMENTS:**

Thomas Carter, Coeur d'Alene, stated that he is the Director of the Human Rights Education Institute and read a letter in support of the Ordinance.

Marlo Faulkner, Coeur d'Alene, stated she is a third generation native of Coeur d'Alene, and has experienced discrimination over her lifetime and spoke in support of the Ordinance.

John Renney, Coeur d'Alene, stated that he is a business owner and spoke of the unintended consequences of the Ordinance and stated that he is in opposition of the Ordinance.

Councilman Gookin asked if a person mentioned they were gay during an interview do they have protection against discrimination. Mr. Wilson stated that only if he is refused employment based solely on the basis that he is gay. Councilman Gookin asked who makes the decision that it was based on sexual orientation. Mr. Wilson stated that would be a complaint-driven process and the City would investigate the complaint.

Larry Angel, Coeur d'Alene, stated that the Council should consider letting the people vote on this major issue, and believes that this is unfair and violates state and federal laws and he is opposed to this Ordinance.

Evelyn Adams, Coeur d'Alene, spoke in support of the Ordinance and stated that she was a County Commissioner twenty years ago when they received a call they were going to be bombed by the Aryan Nations. She stated that it was good that the task force has stood up for the community over the years.

Father Dennis Gordon, Coeur d'Alene, spoke in opposition of the Ordinance as the case presented is a red herring and that it is not a racial issue. He stated it is unfair to quote Martin Luther King and felt this would place a moral burden on people.

Madge Gissel, Coeur d'Alene, spoke in support of the Ordinance. She is a pediatrician and read a statement from the American Association of Pediatricians promoting the well-being of children of Gay or Lesbian parents that stated it is in the best interest of the children that legal and social institutes allow and support them in all their diversity.

Vern Westgate, Coeur d'Alene, read the 14<sup>th</sup> Amendment to the Constitution and stated he is in opposition of the Ordinance, as it does not provide equal protection under the law and does not believe that the City has a problem and the City does not have the authority to fix national problems.

Councilman Gookin asked, in reference to jurisdiction, does the City have the authority to create and enforce this Ordinance. Mr. Wilson stated that it does, under the police powers of the city, so long as there is no state statute in contradiction. He clarified this Ordinance would not be in conflict with state statutes, nor does it violate the 14<sup>th</sup> Amendment.

Eric Seeley, Coeur d'Alene, is a former Pastor and said that this is the most important issue facing the City. He spoke in opposition of the Ordinance and felt that it would lead to future protection of sexual predators and does not protect children.

Susan Moss, Coeur d'Alene, spoke in support of the Ordinance and stated that she has experienced discrimination in the community and, as an attorney, she know that it does not violate the Constitution.

Alicia Zaas, Hayden, said that when she was a 19 year old single mother she had to use a breast pump at work and her co-workers could hear the machine and she was embarrassed. She is concerned that now a transgender male would be in a public restroom with her and/or her daughter and that would be even more uncomfortable. She spoke in opposition of the Ordinance, as it is specialized rights.

**RECESS:** Councilman Kennedy called for a 2-minute recess at 8:00 p.m. The meeting resumed at 8:03 p.m.

#### **PUBLIC COMMENTS CONTINUED:**

Ed Hannagan Jr., Coeur d'Alene, stated that he has been a resident for 20 years. He encouraged the Council to vote from the heart and to not be bullied or intimidated. He wants to protect his grandchildren. He spoke in opposition of the Ordinance as it erodes the rights of the majority.

Brenda Van Noy, Coeur d'Alene, spoke in opposition of the Ordinance and reiterated that this is not a racial issue. She stated that she had been molested as a child for a person's sexual preference and asked the Council to look at this for what it is... sin.

Bev Moss, Coeur d'Alene, is a 37-year resident and spoke in favor of the Ordinance. She stated their daughter had been discriminated against throughout High School and she never expected her to return to the area, as they feared for future discrimination against her, and that this Ordinance would provide such protection.

Jim Plause, Post Falls, spoke in opposition of the Ordinance, as protection is already provided and homosexuality is not a right and not determined by DNA.

Phillip Barnhart, Coeur d'Alene, spoke in opposition of the Ordinance as Godly principals have made our nation great and he has watched over the years as they have been eroded away.

Kenny Moore, Hayden, spoke against the Ordinance as it is in opposition to community will and causes a financial burden. He requested this item be put to a vote.

Brett Becker, Coeur d'Alene, spoke in support of the Ordinance and stated that he has been discriminated against in employment due to being gay and that this Ordinance would be important to others like him and will provide protection that does not exist.

Councilman Gookin asked how Mr. Becker's situation would be handled under this Ordinance. Mr. Wilson stated that the City would investigate and if LGBT were the sole purpose for dismissal that it would be a violation. Councilman Gookin asked what the recourse would be for Mr. Becker. Mr. Wilson explained that if the claim was meritless that is where it would end. If the complaint were found to have merit, the employer would get an opportunity to take remedial measures and pay a \$100 fine or go to court. The Ordinance would not require the employer to hire him back.

Chicora Sanders, said that she is a Professor of Law at the University of Idaho teaching in the area of individual rights and liberties under the Constitution. She spoke in support of the ordinance. While not a race issue, she stated that this is discrimination that is race-like, and reiterated that this Ordinance does not provide any special rights.

Roy Bird, Coeur d'Alene, stated that he prefers Coeur d'Alene as it is the friendliest place he has ever lived. He stated that discrimination is hatred of a person because they are different, which is wrong, and spoke in support of this Ordinance.

Denise Kennedy, Coeur d'Alene, stated that comparing race to homosexual is like oranges to apples, as homosexuality is a choice and spoke in opposition to the Ordinance.

Jacob Shinner, Coeur d'Alene, stated that he is Jewish and that under current laws if he were discriminated against for his religion he has recourse. He stated that if being gay were a choice and religion was a choice then religion should not be protected either. He spoke in support of the Ordinance as he believes it is unfair to offer protection to some but not all.

Ron Vieselmeyer, Coeur d'Alene, does not think the issue will ever be resolved until all agree it is a moral issue based on the Bible, and spoke in opposition of the Ordinance. He read the

introduction to the Declaration of Independence, and asked the Council to table the issue until it is proven that man is born with this sinful nature.

Marilyn Muehlbach, Coeur d'Alene, stated that she is an ordained minister and that there are many ways to interpret the passages quoted tonight. She spoke in support of the Ordinance, as an issue of governance is to protect its people equally.

Sid Vincent, Coeur d'Alene, stated he is a 13-year resident of Coeur d'Alene, and that he is in opposition of the Ordinance as a moral issue. He believes that sometime you have to protect people from things they do not understand.

Josh Swan, Hayden, spoke in support of the Ordinance, and said that he has been discriminated against, and experienced depression because of it. He made a choice to accept himself as to who he is as it is not a choice to be gay.

Sheila Vincent, Coeur d'Alene, stated she has worked in different states and in one job was told to give special privileges to housing applications that appeared to be same sex couples. She felt that it was unfair and then received discrimination for standing up to that. She spoke in opposition of the Ordinance.

Patrick O'Neil, Coeur d'Alene, spoke in support of the Ordinance and expressed that it is protection to children through the protection of employment and housing for same sex parents such as his parents.

Lewis Bevins, Coeur d'Alene stated that he loves everyone and spoke in opposition of the Ordinance based on his faith and that homosexuality is a sin.

Lee Gains, Coeur d'Alene, spoke in opposition of the Ordinance based on the phrase "freedom of sexual expression" as that can be harmful and expression does not make it right.

Brady Smith, Sagle, spoke against the Ordinance based on the determination of what type of discrimination is right and what type is wrong. Unchangeable characteristics such as those listed in the Civil Rights Title are protected so this law is unnecessary.

Patricia Merman, Post Falls, has a Master's Degree in social work, and believes that this is a sexuality issue based on stereotypes and fear. She was recently married in a same sex marriage, which is a small piece of who she is and spoke in support of the Ordinance to have an opportunity to be treated based on who she is, not based on her sexuality.

Councilman Adams asked Ms. Merman if she agreed that this Ordinance would open the door for special treatment. Ms. Merman stated that it would be in the same way that it opened the doors to other protected classes. Councilman Kennedy asked Mr. Wilson to clarify the ordinance language regarding lawsuits. Mr. Wilson stated that this Ordinance does not give that right to sue.

Stewart Bryan, Coeur d'Alene, is an ordained minister and spoken in opposition of the Ordinance and suggested an amendment to the Ordinance to include bestiality as it is just as unnatural as homosexuality.

Councilman Gookin asked Mr. Wilson if bestiality was illegal. Mr. Wilson stated that it is illegal and homosexuality is not illegal in Idaho.

Joe Gains, Coeur d' Alene, stated that he is a retired police officer and that as an officer he conducted investigations based on observations. He spoke in opposition of the Ordinance as it changes what is perceived as ordinary and that there is an evil potential to people. He was concerned that there are 161 registered sex offenders in Coeur d' Alene.

Councilman Kennedy clarified that the Task Force sent the letter requesting this item be brought forward in February and that he had a death in the family that caused the delay in bringing the item forward. Councilman Gookin asked Ms. Wood about people of different gender in public bathrooms. Ms. Wood stated that citizens are protected from all criminal activities and this is about equal rights. Mr. Wilson provided various statistics regarding sex crimes in Idaho such as where it occurs and who is committing the crime. He stated that 1.28 % of the crimes are committed by strangers as most are committed by family and friends; 89% are committed in one's home or offender's home.

Robin Edwards, Bayview, spoke in support of the Ordinance and stated that she has lost employment based on gender identity. The founders of our country wanted a place free from the tyranny of the majority and religious persecution.

Ezra Ziegler, Coeur d' Alene, spoke in opposition of the Ordinance, based on what the majority wants and believes it is a predatory system and the behavior is not normal and asked the Council to consider public safety.

Andy Boston, Coeur d' Alene, spoke in opposition to the Ordinance as it is flawed on all levels including religious and common sense. He stated that he led a gay men's group and that every one of those stated that in a million years they would not want this, which is evidence that it is unnatural. He prepares marketing material and wants the choice of what he produces based on his beliefs.

Councilman Gookin asked Mr. Boston if his gay brother were fired what would he tell him. Mr. Boston stated that he would say that is OK because he needed a different job.

(Inaudible) Golub, Coeur d' Alene, Spoke in opposition of the Ordinance and stated that everyone needs salvation. He asked the Council to judge righteously and not promote sin.

Tim Scott, Coeur d' Alene, stated that he is not a business owner, but he has served the community. He spoke in opposition of the Ordinance, as it would cause the Christian business owners to violate their consciences.

Dick Brewer, Coeur d' Alene, spoke in opposition of the Ordinance.

Lisa Scheckler, Coeur d'Alene, spoke in support of the Ordinance. She owns a business in Coeur d'Alene, employs one person, and is a member of the community. In learning about the civil rights movement as a youth, she always wanted to be on the right side of support for equal protection.

Aaron Mac, Coeur d'Alene, stated that he is a math teacher at NIC and sees the blurring lines of norms being washed out of the youth. Distinctions are important and absolute truth exists and spoke in opposition of the Ordinance and fears for future business requirements and businesses moving out of the city.

Josh Studor, Coeur d'Alene studied law at University of Idaho and is a gay member of the community, and spoke in support of the Ordinance. He stated that he and his partner have to worry about discrimination in housing and being kicked out of a restaurant.

Ron Davidson, Post Falls, stated that he had a question about being a business owner, as a Christian counselor, or daycare owner, and if he were to deny an LGBT person a position would it be a violation of the ordinance, as he is concerned it would cause discrimination on the religious businesses. Mr. Wilson stated that it would depend on the structure of the business and their religious connections and that the business would most likely be protected.

Councilman Kennedy stated that in the past the crime of domestic battery was overlooked because it was difficult to get the facts, but it was found to be important to pass the law and it is still worth doing even though it would be difficult to prove. Mr. Davidson stated that it is unintended consequences. Councilman Kennedy stated that he is still seeking an answer as to the question of why not equal protection. Mr. Davidson stated that religion is protected under constitution and sexual orientation is not.

Pat Bell, Coeur d'Alene, is currently serving at St. Luke Episcopal church and spoke in support of the Ordinance to open up our community and provide protections. He believes the Council should strive for justice, peace, and dignity of all human beings.

**RECESS:** Councilman Kennedy called for a 2-minute recess at 9:52 p.m. The meeting reconvened at 9:59 p.m.

Samuel Cole, Athol, stated that he is a local business owner and that the laws of unintended consequences are at play today. He spoke in opposition of the Ordinance, as it opens Pandora's Box and gave the example of the "don't ask don't tell policy" repeal and the consequence of the increase in sexual assaults, the vast majority of which are homosexual acts.

Linda Wolovich, Coeur d'Alene, spoke in opposition of the Ordinance as it is just a political action and a form of bullying to business owners and provides special rights. Mr. Wilson clarified that there is a false claims provision in the Ordinance.

Dennis Hendrickson, Coeur d'Alene, spoke in opposition of the Ordinance, as it does not provide protection to Christian/religious persons.

Susan Crowe, Coeur d'Alene, spoke in support of the Ordinance and provided an example of her Christian religious experience as self-righteousness that was not good. She believes God is love and Christians should treat their neighbors as themselves. She was a probation officer for 12 years and is currently a mental health therapist in a prison, 50% of her clients are sex offenders, most of which are heterosexual, and less than 1% nationwide are LGBT.

Brent Regan, Coeur d'Alene, spoke in opposition of the Ordinance, as he does not believe it will do what the Council hopes it to do. He stated that it is about stereotypes and this is a national issue, it did not get traction at the federal or the state level, so it is coming to a local level. Councilman Gookin asked Mr. Regan to clarify what he meant regarding stereotypes. Mr. Regan stated that human advancement is based on the ability to evaluate people on their individuality and this Ordinance is codifying stereotypes, as gender identity is conforming to stereotypes rather than the reality. Mr. Regan stated that a business owner should hire the right person for the job, not based on whether or not they are LGBT, which is smart business not a requirement placed upon the business.

David Barger, Coeur d'Alene, spoke in opposition of the Ordinance, as it is a matter of separation of church and state.

Rachel Maughan, Seattle, WA, stated she owns property in Kootenai County, and that she believes one cannot legislate morality, but can legislate behavior. She spoke in support of the Ordinance as it means treating people equally. She stated she was disturbed by the religious references and asked the Council to leave that out of their decision-making.

Kelie Loman, Coeur d'Alene, stated that she has concerns about walking into a bathroom and seeing a male and spoke in opposition of the Ordinance, as she is concerned with the bathroom issue. She asked if there would be urinals in the women's bathroom and is not comfortable with females in the male bathrooms with her male children.

Mr. Wilson stated that the restrooms are not applicable to this Ordinance, because if there is lewd conduct in a restroom there are existing laws regulating that behavior. Additionally, this Ordinance would still provide that one has the right to believe what they believe; however, one would not be free to act discriminatory in employment, housing, or public facility. Ms. Loman asked about women in a boy's bathroom. Mr. Wilson stated that they can do that now.

Jon Downing, Coeur d'Alene, stated that he is an openly gay member of the community and spoke in support of the Ordinance. He teaches at NIC, leads the Gender and Sexual Alliance group, and clarified that the cases referenced by Mr. Stewart are unverifiable, because persons worry about being outed, as they do not have any protection against further discrimination. He believes this Ordinance will demonstrate the commitment that the City has against discrimination. He has not found a case where a male has posed as transgender to commit a predatory act.

Frank Roberge, CA, spoke in opposition of the Ordinance as it is against his religion.

Daniel Brennon, Coeur d'Alene, spoke in opposition of the Ordinance as it would undermine all laws and undermines the Council's authority.

Jeff Lecky, Coeur d'Alene, spoke in opposition of the Ordinance, as it is a trap for the Council and would be a mess for the community.

Jaydee Mays, Coeur d'Alene, stated that he is student at NIC and has been studying debate. He spoke in opposition of the Ordinance, as discrimination is a polar subject, and asked if the City were protecting the LGBT or were they just flipping the discrimination to the opposite position. He stated that he believes that there are laws that say discrimination is wrong.

Alisha Mets, Athol, spoke in opposition of the Ordinance and felt that some of the Council were advocating a position rather than hearing the testimony then making a decision. She did not feel it was a large issue and that Congress would have addressed it if it were an issue. She suggested an amendment to include protection for children/teens to be protected at home and from their parents.

Tony Davidson, Post Falls, spoke in opposition of the Ordinance and asked if a business hired a transgender employee as a restaurant server, but customers are leaving because they do not want to be served by that person, can an owner fire them because of the loss of business. Mr. Wilson stated that the owner would be required to judge the employee just as they would anyone else.

Ruth Townsend, Hayden, stated that she understood that it is a small percentage of the population that is pressing this issue and wondered why the majority of the people should be manipulated and legislated into submitting to the agenda of a few and spoke in opposition of the Ordinance.

Rebecca Carroll, Post Falls, stated that she is a certified school counselor and stated that she has a lot of experience working as a counselor and with children. She worked with 250 kids in Vermont and believes this issue is a major distraction, as 30% of her time was spent on gender issues. She challenged the Council to focus on the important things like education and spoke in opposition of the Ordinance.

**MAIN MOTION:** Motion by Kennedy, seconded by Edinger to pass the first reading of Council Bill No. 13-1011.

**DISCUSSION:** Councilman Gookin explained that he researched the issue and asked questions in order to make his determination. He found that the Idaho Human Rights Commission does not handle these types of complaints, nor does any other agency. The Boise code is more specific, so he looked at Moscow and Sandpoint Ordinances too. He talked to the City of Sandpoint Attorney, as their code has been around for two years. He stated that the intent of the Sandpoint code was to have a venue to resolve complaints. Councilman Gookin found that there is a state-level movement called "add the words," which would add words to the civil rights act and is similar to the proposed ordinance. He found that there had to be an exception clause because of the Boy Scout decision. The Council is now being asked to deal with this at a local level rather than at state level. Councilman Gookin stated that he believes the City does not

handle the large quantity of code enforcement complaints well, so how could it enforce this Ordinance. Mr. Wilson stated that this would be enforced by the Police Department, and explained that the complaints that the Council normally hears about are difficult to deal with issues, i.e., neighbors that do not like each other, inner personnel issues that are difficult to address. In this case, it would be difficult; however, staff and police deal with difficult codes frequently. Councilman Gookin stated that it was saddening to hear about discrimination occurring and it is wrong. He stated that this Ordinance provides the protection equal to other civil rights classifications. Additionally, the Council cannot legislate from the Bible; the Ordinance would just add the words sexual orientation to the other listed civil rights categories and he will support the Ordinance.

Councilman Adams stated that this is a liberty issue and that liberty requires responsibility, patriotism, and morality, and if one is taken away they all fall. He stated that he has studied the Bible intently, and feels that some people will disregard what they do not agree with. He stated he was concerned with the rush of making a decision and concerned with a criminal penalty for property and business owners. He is concerned about the exemption of religious organization but not the personal property of a religious person. Property owners would be forced to litigate their rights. He expressed concern about the direct costs to accommodate for business owners, and that the Council should give more consideration to the business owner.

Councilman Goodlander stated that she has done a lot of research and read many ordinances. She has been concerned with the business owners that would be forced to go against their beliefs, but unfortunately, at times she has to take one side or the other. She recalled the first confrontation with the Aryan's Nation and she believes human rights are human rights. She agrees that the City of Coeur d'Alene is an icon regarding civil rights and has stood against hate, she remembers standing across from Independence Point and saw the white hoods of the KKK against the lake, and they had a right to march, but the community stood against hate. She stated she would support the Ordinance because the City has to send the message that intolerance will not be in Coeur d'Alene.

Councilman Edinger stated that he has listened to the comments and has received calls and letters and believes that Coeur d'Alene stands out as a champion of human rights. He believes it would be a disservice to the people who pushed for human rights if the Ordinance is not approved. Additionally, he believes that when elected the Council is elected to represent all the people.

**MOTION:** Motion by Edinger to amend the Ordinance to amend the penalty section by striking section "a" and "c" and to be an infraction of not more than \$100.00. **Motion failed for lack of a second.**

**MOTION:** Motion by Edinger to strike the word transgender from the entire ordinance. **Motion failed for lack of a second.**

Councilman McEvers stated that he has tried to be open all night and had not previously made up his mind. He felt he previously did not have the right answer, so his thought for the night was to hear the testimony and then make up his mind. He did hear many important things and some

thing's confused him and felt it did not help him. He agreed it is about doing what is right for everyone. He has spent more than half his life in Coeur d'Alene and believes that in the spirit of where the community has been and who it is now; he will support this Ordinance.

Councilman Gookin asked if upon adoption of the Ordinance, if the City should extend benefits to same sex partners. Mr. Wilson stated that that item is not on the agenda tonight, but can be discussed at another meeting.

Councilman Kennedy stated that this came up from the Human Rights Task Force on Human Relations in February. He spoke to other cities who have passed these type of Ordinances and from a state-wide level and for him it comes down to the bottom line of why is acceptable to fire you because you are gay but not based on race. He has been Catholic since birth and he believes the fundamental Jesus story.

**MOTION:** Motion by Kennedy, seconded by Edinger to call for the question. **Motion carried.**

**ROLL CALL ON MAIN MOTION:** McEvers Yes; Goodlander Yes; Gookin Yes; Kennedy Yes; Edinger Yes; Adams No. **Motion carried.**

**MOTION:** Motion by Edinger, seconded by McEvers to suspend the rules and to adopt Council Bill No. 13-1011 by its having had one reading by title only.

**ROLL CALL:** McEvers Yes; Goodlander Yes; Gookin Yes; Kennedy Yes; Edinger Yes; Adams No. **Motion carried.**

**RECESS:** Councilman Kennedy called for a 2-minute recess at 11:36 p.m. The meeting resumed at 11:50 p.m.

#### **RESOLUTION NO. 13-035**

#### **A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN EASEMENT AGREEMENT FOR 401 FRONT AVENUE PEDESTRIAN TUNNEL WITH BLACK RIDGE PROPERTIES, LLC.**

Councilman Kennedy stated that this item came forward from General Services without a recommendation. Mr. Chris Meyer presented this request as the applicant, stating that the purpose of the request is to build a stub tunnel from the back wall of the Front Avenue parking lot to the backside of their property line. He stated that there is a cost savings to construct this now, and described the tunnel to need a 12'x12'x12' easement, as the tunnel would be a 9'x9'x9' room intended for future use and would allow the City to use it until it is needed in the future. Black Ridge would cover all design, engineering, and construction costs, no there would be no cost to the City or delay in the schedule of the project. Mr. Meyer stated that he has provided exhibits/drawings of the proposed easement, which would sit toward the middle of the property.

Councilman Kennedy clarified that he has business relationship with Steve Meyer on an unrelated matter and legally does not have a conflict. Councilman Edinger asked why this idea

was not discussed at all the McEuen planning meetings. Mr. Meyer stated that they were not thinking of this at that time. When the contractor asked for more parking and needed 20' of the Black Ridge property, they saw the large hole on their site, and then thought of this opportunity. Councilman Edinger asked Mr. Wilson if this were granted would it set a precedent for other similar requests. Mr. Wilson said that it would demonstrate an opportunity for others to explore, but not necessarily a precedent. He clarified that he has heard from other property owners that they are interested in pursuing this option. Councilman Goodlander asked if there was some discussion when they were discussing the parking lot about providing access from the parking garage. Ms. Gabriel stated that in December the idea that this might be an option came forward and confirmed that it would be more expensive to do it after the garage is complete.

Councilman Gookin stated that the Coeur d'Alene Press quoted Mr. Meyer as saying that there is no need for the access. Mr. Meyer clarified that he meant that they do not have an immediate plan for the access; however, it is a plan for potential of the future property use. Councilman Gookin stated that he felt that there should be public access from a public parking garage, and is concerned that the future use would be access to a private residence. Mr. Meyer stated that it could be open to the public during working hours and closed after hours. Mr. Wilson stated that the Council could require access through the public portion of the tunnel and that any future development would need to meet city codes for parking etc. Mr. Meyer stated that the underground access would be a competitive advantage, as it would allow covered access during winter bad weather months. Councilman Gookin asked if the City could grant a blanket easement to all the property owners. Mr. Wilson stated that each one should be reviewed individually due to the requested access point and any conflicting utilities, etc. Mr. Meyer stated that the schedule would require proposed modification by July 1, 2013.

**MOTION:** Motion by Goodlander, seconded by McEvers to adopt Resolution 13-035.

**Public Comment:**

Suzie Snedaker, Coeur d'Alene, stated that the importance of having the sidewalk and streetscape downtown is to promote activity. This underground access would be similar to the skywalk in Spokane, which takes people off the street. She expressed concern that the access would eliminate the semblance of community on the street and that it would change the public/private use of that building.

Dave Chamberlin, 1323 Birch, stated that he thinks this is a good idea because we live in an area of bad weather. He thinks this is a good idea to think ahead and the city should consider vaults at each property for future use while the wall is being constructed. There may be an initial investment by the City but those can be picked up by the private property in the future.

Jim Bossingham, Coeur d'Alene, stated that there is a perception that there are strings being pulled and that a public entity to a private entity would leave a bad taste in peoples mouth. He suggested the City add a substantial yearly fee.

Councilman Adams asked what he thought would be an appropriate fee. Mr. Bossingham suggested thousands of dollars a year, which could go back into the funds for maintenance of McEuen. Councilman Edinger asked Mr. Wilson if the City could charge a yearly fee. Mr.

Wilson stated that there is case law against selling right-of-way and he would have to look into it further.

Jim Coleman Coeur d'Alene, stated that the Idaho Transportation Department would do such a public/private partnership through an encroachment permit that would include a one-time fee. There is a belief that these types partnership generate revenue for business, cost of the permit is based on the value added to the property for having that access but not an annual fee.

Councilman McEvers asked why this is different from a driveway cut permit. Mr. Wilson stated that the parking lot is going to be there regardless of whether the tunnel occurs or not and clarified that the City is being held harmless from costs. Councilman Goodlander stated that the property owner is paying a good amount of money through the LID.

Mr. Meyer stated that they would still be obligated to meet all city codes. He stated that he hoped that once people were done doing business at the property they would access other businesses. His intent is to provide an opportunity to avoid inclement weather and reiterated that all construction costs would be borne by the corporation.

**Discussion:** Councilman Adams asked if the City has received any other requests. Mr. Wilson stated that he has received a call from the Coeur today stating that they will be sending in a request. Councilman McEvers stated that it appears that three parking stalls would be lost. Mr. Meyer stated that the access would modify one parking stall and it could be modified to a compact parking stall with no loss of parking. Councilman Edinger asked what the deadline would be for other requests. Mr. Wilson stated that there is no deadline; however, if they want to beat the construction deadline it would need to be requested before the next meeting. Councilman Edinger asked how the City would know how many stalls would be removed for the other requests. Mr. Wilson stated that it depends on the location of the request.

**ROLL CALL:** Goodlander Yes; Gookin No; Kennedy Yes; Edinger Yes; Adams No; McEvers Yes. **Motion carried.**

## **LAKE COEUR D'ALENE DRIVE PROPERTY TRANSFER REQUEST BY IDAHO DEPARTMENT OF TRANSPORTATION (ITD)**

**Staff Report:** Ms. Gabriel stated that she has approached ITD about providing more time to do some master planning prior to the City Council finalizing a decision. The master planning would include review of the boat launch, public access, public docks, and would involve the property owners and associated agencies. She estimates it would take approximately four months to conduct this type of master planning. Mr. Coleman, ITD Boardmember stated that he thought that the board would be agreeable to the time extension. Councilman Kennedy asked if the planning would include a review of the use of the \$3 million. Ms. Gabriel stated that it would and clarified that it would review the resolution of one specific easement issue.

Mr. Coleman stated that the question is if ITD can hold on to the money until this is resolved, as the legislature has stated that ITD needs to do projects and get the money spent within their mission. He stated that he believes master planning is a good idea. Councilman McEvers stated

that the plan would be for the City to master plan it and suggested that ITD pay for the master planning. Mr. Coleman stated he would be willing to take that proposal to the board workshop in the next couple of weeks. He stated that he would suggest that ITD add some scope to the study that would be useful to ITD in case the City does not end up taking the property.

Councilman Goodlander stated that she envisions this as an opportunity to work with the other jurisdictions as a group effort.

#### **PUBLIC COMMENT:**

Jim Bossingham, Coeur d'Alene, stated that he is retired from the Federal Highway Administration and does not see why the City needs to hurry to make a decision. He is concerned with the condition of the road, specifically the bottom of Bennett Hill. He believes the City should hire a private engineering consultant to core drill the hill and that he does not believe the City can maintain the road for \$30,000 a year.

Judy Nixon, Silver Beach Road, Coeur d'Alene, stated she is totally opposed to this proposal and the City should consider it only on the merit of what the road is, not that it may create public beaches and docks. There are already many private docks and adding a public beach next to a boat launch would not make sense. She will email the Council her concerns and would like the City to consider the real conditions of the road during the master planning.

Rachael Maughan, Seattle, owns property on Silver Beach and asked that the Council not accept this property as there is not enough information. The master plan would be a good thing and she is concerned with the removal of trees. She owns the waterfront and there is an easement across her property for the trail and she is concerned there is a movement to remove crossing over the trail. She wants input as a property owner, and would want to see master plan options. She agrees that maintaining the area for \$30,000 annually would be difficult.

Evelyn Adams, Silver Beach, Coeur d'Alene, stated that she did not hear enough facts presented for the Council to make a sound decision. During her term as County Commissioner the County looked at purchasing the property that the Beach House is currently located. They paid for a study for a potential launch and found it was very expensive and the feasibility too prohibitive. She stated that parking is tight and is a problem. She believes that Eastside Highway District should take on the road.

Linda Wolovich, Coeur d'Alene, stated she wanted to know if ITD would carry out the master plan, as she would like to get the plan done and have ITD carry it out. She believes that ITD does have the equipment to better maintain the street and that it could be a cooperative opportunity. She referenced the 2030 vision plan as an opportunity for the community to discuss this item.

Mr. Coleman stated that in the last four to five years, ITD has struggled to continue to maintain the road and they have discussed what to do with the reduced budgets. Through their classification process, Coeur d'Alene Lake Drive is on the bottom of their priority list, and it probably would not be the same level of service over the next twenty years. He suggests that the

City work through a request to ITD to participate and fund a master plan to determine the feasibility and/or cooperative agreement with agencies to take over the road.

Councilman Edinger stated that it is his understanding that the state legislature required that ITD maintain the road if it is under their ownership. He expressed concern that the \$3 million would not last long and then the taxpayers in Coeur d'Alene would have to pick up the maintenance costs. Councilman Edinger stated that he believes that Eastside Highway District is the only logical agency to take over this roadway. Councilman Adams stated that he does not see how a master plan for \$30,000- \$50,000 of taxpayer dollars would help him make up his mind.

**MOTION:** Motion by Adams, seconded by Edinger to deny the ITD Request to transfer Lake Coeur d'Alene Drive to the City.

**DISCUSSION:** Councilman Goodlander stated that she believes there is an opportunity within the request and disagrees with the motion. She stated that the City is good at creating and maintaining trails as well as having the capability to deal with tree issues. She stated she is not in favor of taking on the road or putting in a boat launch; however, she sees an opportunity to plan and work in partnership with other agencies, such as Eastside Highway District. Councilman Kennedy stated that there is an opportunity to pursue master planning paid for by ITD.

Councilman Adams called for the question. **Motion Carried.**

**ROLL CALL:** McEvers Yes; Goodlander No; Gookin Yes; Kennedy Yes; Edinger Yes; Adams Yes. **Motion carried.**

**MOTION:** Motion by Kennedy, seconded by Goodlander to direct staff to make a request to ITD to fund and conduct a master plan that will include the other stakeholders.

**ROLL CALL:** Edinger No; Kennedy Yes; McEvers Yes; Gookin No; Adams No; Goodlander Yes. **Motion carried** with the Mayor voting in the affirmative.

**PUBLIC COMMENTS:** Councilman Kennedy called for public comments with none being received.

**ADJOURNMENT:** **Motion** by Edinger, seconded by McEvers to recess to June 6, 2013, at 1:30 p.m. for a Council Workshop to discuss the Annual City Strategic Planning at the Library Community Room. **Motion carried.**

The meeting recessed at 1:10 a.m.

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ATTEST:

Sandi Bloem, Mayor

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Renata McLeod, City Clerk

A CONTINUED MEETING OF  
THE COEUR D'ALENE CITY COUNCIL  
JUNE 6, 2013

The Mayor and Council of the City of Coeur d'Alene met in continued session in the Library Community Room at 12:00 noon on June 6, 2013 there being present upon roll call a quorum:

Sandi Bloem, Mayor ) Absent

Loren Ron Edinger ) Members of Council Present  
Deanna Goodlander )  
Dan Gookin )  
Woody McEvers )  
Steve Adams )  
Mike Kennedy )

**DEPARTMENT HEADS PRESENT:** City Administrator Wendy Gabriel, Municipal Services Director Renata McLeod, Finance Director Troy Tymesen, Deputy City Administrator Jon Ingalls, Parks Director Doug Eastwood, Library Director Bette Ammon, Water Superintendent Jim Markley, Fire Chief Kenny Gabriel, Police Chief Wayne Longo, Human Resources Director Pam MacDonald, Recreation Director Steve Anthony, Planning Director Dave Yadon, Building Services Director Ed Wagner, City Attorney Mike Gridley, Streets Superintendent Tim Martin, City Engineer Gordon Dobler, and Wastewater Superintendent Sid Fredrickson.

**STRATEGIC PLANNING WORKSHOP:** City Administrator Wendy Gabriel provided an introduction and stated that the meeting purpose was to provide a year-end report, updates to the Mayor and Council goals and discuss the upcoming fiscal year goals.

**STRATEGIC PLANNING – YEAR IN REVIEW:** Deputy City Administrator Jon Ingalls provided an award winning presentation of the City's annual accomplishments for fiscal year 2012-2013. The theme for this year was "living here is special and the City has great innovative staff."

**STRATEGIC OVERVIEW:** Each of the sixteen Department Heads provided a 2-minute presentation of the status of their department. Needs expressed included capital funding, staffing, technology enhancements, meeting federal regulations, and health care reform.

**FINANCIAL OUTLOOK:** Finance Director Troy Tymesen provided a brief update on the financial outlook for fiscal year 2013-2014. Highlights included revenues looking better than last year; Affordable Care Act; sales, liquor, and highway taxes; continued growth in building permit revenues; and the need for capital enhancements.

**CITY FOCUS AREAS:** Ms. Gabriel provided a brief presentation of the status of goals set last year. She opened the floor to the Council for discussion of potential future goals for the upcoming fiscal year. The Council expressed thanks and appreciation to the Department Heads and staff. A common concern expressed was the request for a cost of living increase and the

need for capital purchases and that is would be a difficult balancing act. Ms. Gabriel stated that preliminary budgets are being drafted and should be available soon.

**ADJOURNMENT:** Motion by Edinger, seconded by McEvers that there being no further business, the meeting be adjourned. **Motion carried.**

The meeting recessed at 4:45 p.m.

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Sandi Bloem, Mayor

ATTEST:

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Renata McLeod, City Clerk

RESOLUTION NO. 13-036

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 APPROVING A LEASE AGREEMENT WITH THE COEUR D'ALENE CHAMBER OF COMMERCE FOR LEASE OF CITY OWNED PARKING LOTS ON THE 4<sup>TH</sup> OF JULY; APPROVING AN ENCROACHMENT AGREEMENT ALONG PARK AVE. WITH SULLY'S PUB (5735 GOVERNMENT WAY); APPROVING A MEMORANDUM OF AGREEMENT WITH JANHSEN PROPERTIES, LLC FOR PUD-2-07M "COTTAGE GROVE"; AND APPROVING A SUBDIVISION AGREEMENT AND SECURITY APPROVAL FOR LANDINGS AT WATERFORD 10<sup>TH</sup> ADDITION.

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 "A through D" and by reference made a part hereof as summarized as follows:

- A) Approving a Lease Agreement with the Coeur d'Alene Chamber of Commerce for lease of city owned parking lots on the 4<sup>th</sup> of July;
- B) Approving an Encroachment Agreement along Park Drive with Sully's Pub (5735 Government Way);
- C) Approving a Memorandum of Agreement with Janhsen Properties, LLC for PUD-2-07M "Cottage Grove".
- D) Approving S-2-03 Landings at Waterford 10<sup>th</sup> Addition, Final Plat, Subdivision Agreement & Security approval.

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 "A through D" 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 18<sup>th</sup> day of June, 2013.

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Sandi Bloem, Mayor

ATTEST

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Renata McLeod, City Clerk

Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER KENNEDY                    Voted \_\_\_\_\_

COUNCIL MEMBER GOODLANDER                Voted \_\_\_\_\_

COUNCIL MEMBER MCEVERS                    Voted \_\_\_\_\_

COUNCIL MEMBER ADAMS                      Voted \_\_\_\_\_

COUNCIL MEMBER GOOKIN                    Voted \_\_\_\_\_

COUNCIL MEMBER EDINGER                    Voted \_\_\_\_\_

\_\_\_\_\_ was absent. Motion \_\_\_\_\_.

**FINANCE DEPARTMENT**  
Staff Report

DATE: June 10, 2013  
FROM: Troy Tymesen, Finance Director, and Liaison to Parking Commission  
SUBJECT: Leasing of the City owned parking lots to the Coeur d'Alene Chamber of Commerce on the 4<sup>th</sup> of July

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**DECISION POINT:**

To lease the City owned parking lots to the Chamber of Commerce on the 4<sup>th</sup> of July to generate revenue that will be used exclusively to defray the cost of the community fireworks display.

**HISTORY:**

In the past the City has leased individual lots to entities that have wanted the space to display goods or conduct auctions. The proposal from the Chamber and previously recommended by the Parking Commission is to allow the Chamber to lease the City owned lots for \$5,310.00, which is the projected revenue to the Parking Fund for the 4<sup>th</sup> of July event parking day. This would be the fourth year of this partnership. The Chamber is proposing to charge \$15.00 per car for parking on the 4<sup>th</sup> of July in order to generate income to assist with the cost of the fireworks display. The estimated cost of the fireworks display is \$30,000.00. The Chamber has taken on more responsibility for the traffic control expense on that day, by paying for 17 flaggers.

**FINANCIAL ANALYSIS:**

The Parking Fund, which receives no property taxes, is the recipient of these funds and with this proposal there would be no negative impact to the revenue anticipated from use of the City owned parking lots. 40% of the net income from the Parking Fund goes to the Parks Capital Improvement Fund, which is used to develop parks. If the Chamber were to charge \$15.00 for event parking the gross income should be approximately \$5,310.00 which would be used to defray the cost of the community fireworks display. This proposal includes the following parking lots: Museum, Memorial Field, Independence Point, 4<sup>th</sup> and Coeur d' alene as well as the upper Library lot and the paved lot south of City Hall and the lower City Hall parking lot bordering McEuen Field.

**PERFORMANCE ANALYSIS:**

The revenue generated by this partnership would go to a dedicated fund for the community fireworks. The Chamber does not have a direct method to collect funds for this annual celebration.

**DECISION POINT/RECOMMENDATION:**

To lease the City owned parking lots to the Chamber of Commerce on the 4<sup>th</sup> of July to generate revenue that will be used exclusively to defray the cost of the community fireworks display.



## CITY OF COEUR D'ALENE

City Hall, 710 E. Mullan Avenue  
Coeur d' Alene, Idaho 83814  
(208)769-2300  
[www.cdaid.org](http://www.cdaid.org)

June 18, 2013

Mr. Steve Wilson  
Executive Director  
Coeur d'Alene Chamber of Commerce  
105 N First Street, Ste. 100  
Coeur d'Alene, ID 83814

RE: 4<sup>th</sup> of July Parking Lot Lease Agreement

Dear Mr. Wilson:

Pursuant to City Council Resolution number 13-036, approved June 18<sup>th</sup>, 2013, this letter will serve as the Lease Agreement between the City of Coeur d'Alene (lessor) and the Coeur d'Alene Chamber of Commerce (lessee) for the following listed city parking lots for July 4, 2013:

- Paved lot south of City Hall and the lower City Hall parking lot bordering McEuen Field
- Independence Point lot
- Museum lot
- Memorial Field lot
- 4<sup>th</sup> & Coeur d'Alene lot
- Coeur d'Alene Public Library

The term of the lease shall be 24 hours, starting at midnight on July 3, 2013 and ending at midnight July 4, 2013.

The rental amount for the lease shall be Five Thousand Three Hundred Ten Dollars and No/100's (\$5,310.00) payable to the City of Coeur d'Alene Parking Fund. Payment shall be made by or before July 31, 2013.

The lessee agrees that it will charge no more than \$15.00 per space for all parking spaces during the term of the lease. Said revenue will be used exclusively to defray the cost of the community fireworks display.

Please sign this Lease Agreement and return it to the City Clerk. Thank you for your attention to this matter.

APPROVED:

\_\_\_\_\_  
Sandi Bloem, Mayor

By: \_\_\_\_\_  
Coeur d'Alene Chamber of Commerce

ATTEST:

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

\_\_\_\_\_  
Renata McLeod, City Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **GENERAL SERVICES STAFF REPORT**

DATE: June 10, 2013

FROM: Warren Wilson, Deputy City Attorney

SUBJECT: Encroachment Agreement for Sully's Pub (5735 Gov't Way)

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**DECISION POINT:**

Recommend that the full Council approve an encroachment agreement to allow Sully's Pub to continue encroaching onto the right of way for Park Ave.

**HISTORY:**

The structure currently housing Sully's Pub encroaches into the right of way for Park Ave. by an approx. 6 - 8 feet. The structure was constructed many years ago. The City has no current plans to further improve Park Ave. and at this point the encroachment is not interfering with the public's use of Park Ave. The owner has asked for an encroachment agreement to document the status of the building.

**FINANCIAL ANALYSIS:**

There is no quantifiable financial impact to approving the agreement. Under the agreement, the applicant bears all costs for removal of the encroachment in the future if the City ever need to use the right of way.

**PERFORMANCE / QUALITY OF LIFE ANALYSIS:**

The encroachment has existed for many years and is not, at this time, interfering with the use of Park Ave. In the future it may be necessary to remove the encroachment. This agreement will formalize the encroachment so that all parties understand the legal status of the structure.

**DECISION POINT/RECOMMENDATION:**

Recommend that the full Council approve an encroachment agreement to allow Sully's Pub to continue encroaching onto the right of way for Park Ave.

## **ENCROACHMENT AGREEMENT**

The **City of Coeur d'Alene**, Kootenai County, Idaho, a municipal corporation and political subdivision of the state of Idaho, hereinafter referred to as the "City", hereby grants permission to **Sully's Pub**, 5735 Government Way, Coeur d'Alene, Idaho 83815, hereinafter referred to as the "Permittee", to encroach into the public right-of-way of Park Avenue subject to the following terms:

1. The subject property is legally described on the Attached **Exhibit "A"**, which by this reference is incorporated herein.
2. This agreement is granted solely for the continued use and maintenance of the existing structure, which encroaches approximately 4.5 feet onto the public right of way for Park Ave. The encroachment may not be expanded or improved in any manner without the express written permission of the City.
3. The City shall have the right to terminate this agreement at the expiration of 90 days after giving written notice to the "Permittee", at the address given above, of the City's intention to terminate the permit. The Permittee shall be deemed to have received such written notice when such notice addressed to the Permittee at the location hereinbefore described is deposited in the United States mail so addressed, with proper postage affixed thereto and certified. The Permittee shall remove such encroachment within 90 days of receiving such notice. Should the Permittee fail to remove the encroachment and return the right-of-way to the condition existing before construction of the encroachment, at the Permittee's cost, within such time, the City may remove the same and charge the expense to the Permittee. Permittee agrees that any materials so removed shall be deemed quitclaimed to the City. Permittee also agrees that any materials removed by the City may be discarded or retained by the City, and Permittee shall have no claims to such materials and no claim for reimbursement for the value of the same.
3. Nothing herein contained shall imply or import a covenant on the part of the City for quiet enjoyment of the real estate upon which the encroachment is constructed, it being understood by the parties that the City's right and power to issue such permit is limited.
4. The Permittee shall hold the City harmless from any liability resulting from the encroachment including construction, placement, or maintenance thereof. Permittee further agrees that said encroachment shall be maintained by Permittee in a safe and clean condition so as not to constitute a public hazard. Permittee shall save the City harmless and defend the City from all claims for injury to person or property resulting from Permittee's actions or omissions in performance of this Encroachment Permit. The Permittee without delay shall obtain and thereafter shall maintain, at all times, liability insurance naming the City as one of the insureds 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, it being the intention that the minimum limits shall be those provided for under Chapter 9, Title 6, Section 24 of the Idaho Code.

5. The Permittee shall furnish the City certificates of the insurance coverage's required herein, which certificates must be approved by the City Attorney.
6. All costs for said encroachment including but not limited to construction, maintenance, use or operation now or in the future shall be borne by Permittee. During the term of this permit, Permittee shall maintain the property described in **Exhibit "A"**, in a manner and condition acceptable to the City.
7. Permittee agrees Permittee will not encroach beyond the maximum limits allowed herein and that said encroachment is allowed only for the purposes set forth herein and shall not be expanded.
8. The Permittee shall comply with all laws affecting the property described herein.
9. This agreement shall be binding on the Permittee, its heirs, assigns and successors in interest.

IN WITNESS WHEREOF, the parties hereto have executed these presents this 18<sup>th</sup> day of June, 2013.

CITY OF COEUR D'ALENE

PERMITTEE  
SULLY'S PUB

---

Sandi Bloem, Mayor

ATTEST:

---

Renata McLeod, City Clerk

STATE OF IDAHO                         )  
  )  
  ss.  
County of Kootenai                      )

On this \_\_\_ day of June, 2013, before me a Notary Public, personally appeared **Sandi Bloem** and **Renata McLeod**, known to me to be the Mayor and City Clerk respectively, of the City of Coeur d'Alene that 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 June, 2013, before me a Notary Public, personally appeared. \_\_\_\_\_ of **Sully's Pub** and known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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:

Chicago Title Insurance Company

Commitment Number: 80258

**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**

The land referred to in this Commitment is described as follows:

The North 132 feet of Tracts 47 and 48, FIRST ADDITION TO MEYERDALE, according to the plat recorded in the office of the County Recorder in Book C of Plats at Page 3, records of Kootenai County, Idaho.

EXCEPTING THEREFROM that portion conveyed to the City of Coeur d' Alene in Warranty Deed, recorded March 10, 2011 as Instrument No. 2305722000, Official Records.

## **CITY COUNCIL STAFF REPORT**

DATE: JUNE 18, 2013  
TO: CITY COUNCIL  
FROM: PLANNING DEPARTMENT  
SUBJECT: PUD-2-07M - MEMORANDUM OF AGREEMENT

### **DECISION POINT**

Approve memorandum of agreement for PUD-2-07M "Cottage Grove"

### **HISTORY**

The Planning Commission approved PUD-2-07m on August 9, 2011, and the Planning Department approved the Final Development Plan on February 27, 2013.

### **PERFORMANCE ANALYSIS**

It has been past practice to memorialize the Final Development Plan, in accordance with Section 17.09.478 of the Municipal Code, by requiring a memorandum of agreement that is approved by the City Council, signed by the Mayor and property owner and recorded in the Kootenai County Recorder's Office. This request is in keeping with that procedure.

### **FINANCIAL ANALYSIS**

There is no financial impact associated with the proposed memorandum of agreement.

### **QUALITY OF LIFE ANALYSIS**

The memorandum of agreement will provide any future buyers of the property with information on the agreement.

### **DECISION POINT RECOMMENDATION**

Approve the memorandum of agreement for PUD-2-07M.

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the City of Coeur d'Alene, Kootenai County, Idaho, a municipal corporation organized and existing under the laws of the State of Idaho, hereinafter referred to as the "City," and Janhsen Properties, LLC., hereinafter referred to as the "Owner."

W I T N E S S E T H:

WHEREAS, the "Owner" has received approval for a Planned Unit Development, which Planned Unit Development includes certain terms, conditions and agreements, which the parties wish to memorialize as applicable to the real property to which this Planned Unit Development attaches.

NOW, THEREFORE the parties agree as follows:

1. The real property to which the below listed terms, conditions, and agreements apply particularly is described as follows:

The property is more specifically described as a +/- 10 acre parcel in the vicinity of the Northeast corner of West Pinegrove Drive and Canfield Avenue. It is legally described as the COTTAGE GROVE subdivision, in the Southwest 1/4 of Section 26, Township 51 North, Range 4 West, Boise Meridian, and Kootenai County, Idaho commonly known as the property served by the private street W. Grove Way.

The parties agree that the following constituted agreement to which the owner, owner's heirs, assigns, and successors in interest, must comply during and after the development of the aforementioned Planned Unit Development.

- A. Preliminary Planned Unit Development Plan (PUD-2-07m) approved by Planning Commission on August 9, 2011.
- B. Final Planned Unit Development Plan (PUD-2-07m) approved by Planning Department on February 27, 2013.
- C. List of exhibits.

Exhibit 1- Final PUD Water and Sewer Service plans dated December 1, 2011.

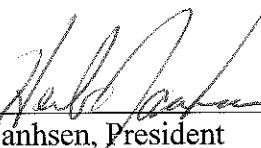
WHEREAS, said terms, conditions, and agreements are on file at City Hall in the Offices the Planning Director, and City Clerk.

IN WITNESS WHEREOF, the Mayor and City Clerk of the City of Coeur d'Alene have executed this contract on behalf of said City, the City Clerk has affixed the seal of said City hereto, and JANHSEN PROPERTIES, LLC. Owner has caused the same to be executed the day and year first above written.

CITY OF COEUR D'ALENE,  
KOOTENAI COUNTY, IDAHO

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

JANHSEN PROPERTIES, LLC

By:   
Herb Janhsen, President

ATTEST:

Renata McLeod, City Clerk

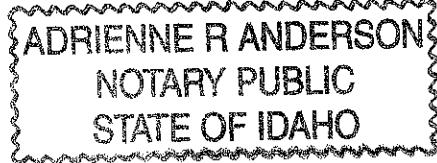
STATE OF IDAHO )  
                      )  
                      ) ss.  
County of Kootenai )

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared Sandi Bloem and Renata McLeod, 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 4 day of June, 20013, before me, a Notary Public, personally appeared, JANHSEN PROPERTIES, LLC, known to me to be the Owner that executed the foregoing agreement, and acknowledged to me that JANHSEN PROPERTIES, LLC 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 Kootenai County  
My Commission expires: 4-3-2013

**CITY COUNCIL  
STAFF REPORT**

JP

**DATE:** June 18, 2013  
**FROM:** Christopher H. Bates, Engineering Project Manager  
**SUBJECT:** Landings @ Waterford 10<sup>th</sup> Addition: Final Plat, Subdivision Improvement Agreement & Security Approval

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#### **DECISION POINT**

Staff is requesting the following:

1. City Council approval of the final plat document.
2. City Council approval of the furnished subdivision improvement agreement and security.

#### **HISTORY**

- a. Applicant: Tom Anderl  
Mulligan Investment, LLC  
1250 Northwood Center Court  
Suite "A"  
Coeur d'Alene, ID 83814
- b. Location: East & west sides of Downing Lane, between Long Meadow Drive & Freeland Drive in the Landings development.
- c. Previous Action:
  1. Final plat of initial Landings @ Waterford to Landings 6<sup>th</sup> Addn: 1/2004 – 11/2011.
  2. Final plat Landings @ Waterford 7<sup>th</sup> Addition: June 2012
  3. Final plat of Landings @ Waterford 8<sup>th</sup> & 9<sup>th</sup> Additions: July 2012

#### **FINANCIAL ANALYSIS**

The developer is furnishing security in the amount of \$192,645.03 which covers the outstanding cost of the infrastructure installations that are yet to be installed, and, are required for this development.

#### **PERFORMANCE ANALYSIS**

The developer has completed the necessary subdivision agreement and is bonding for the remaining outstanding infrastructure items in order to receive final plat approval. The installation of the agreement and security enables the developer to receive final plat approval and sell platted lots, however, building permit issuance will not be allowed until the infrastructure installation has been completed. The developer has stated that all infrastructure installations will be complete by July 1, 2014.

#### **DECISION POINT RECOMMENDATION**

1. Approve the Subdivision Improvement Agreement and security.
2. Approve the final plat document.



## AGREEMENT TO PERFORM SUBDIVISION WORK

Landings at Waterford – 10<sup>th</sup> Addition

THIS AGREEMENT made this \_\_\_\_ day of June, 2013 between Mulligan Investments, LLC, whose address is 1250 Northwood Center Court, Suite "A", Coeur d'Alene, ID, 83814, with Thomas Anderl, 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 E. 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 Landings at Waterford 10<sup>th</sup> Addition, a 19<sup>th</sup> (19) lot residential development, in Coeur d'Alene, situated in the Northwest ¼ of Section 28, Township 51 North, Range 4 West, B.M., Kootenai County, Idaho; NOW, THEREFORE,

### **IT IS AGREED AS FOLLOWS:**

The Developer agrees to complete the following public improvements: site grading, concrete curb and gutter installation, concrete sidewalk installation, stormwater drainage facilities and appurtenances, roadway construction (including but not limited to excavation, structural fill placement, base course, and asphalt paving), trail system construction, signage, and, interior lot corner monumentation, as required under Title 16 of the Coeur d'Alene Municipal Code, on or before the 1<sup>st</sup> day of July, 2014. Said improvements are more particularly described on the submitted estimate dated June 4, 2013 attached as Exhibit "A", and, shown on the civil engineering drawings titled "The Landings at Waterford 10<sup>th</sup> Addition", dated April 29, 2013, signed and stamped by Drew Dittman, PE # 11138, whose address is 3909 N Schreiber Way, Ste. 4, Coeur d'Alene, Idaho 83815, on file in the City of Coeur d'Alene Engineering Department's office and incorporated herein by reference.

The Developer, prior to recording the plat, shall deliver to the City, security in the amount One Hundred Ninety Two Thousand, six hundred forty five and 03/100 (**\$192,645.03**) securing the obligation of the Developer to complete the subdivision improvements referred to herein. The term of the security shall extend a minimum of one year beyond the time within which the improvements are to be completed as provided herein, and, a copy of such security is marked as Exhibit "B" attached hereto and by reference made a part hereof. The security shall be held until the completion and acceptance of the required installations shown on the approved plans. The security shall provide that upon the failure of the Developer to complete the improvements within the time herein provided, the City may demand the installed funds 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 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

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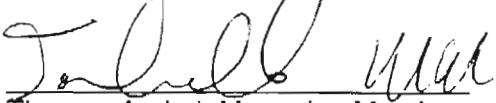
Sandi Bloem, Mayor

ATTEST:

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Renata McLeod, City Clerk

Mulligan Investments, LLC



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Thomas Anderl, Managing Member

**Waterford 10th Addition**  
**LCE 13-022**  
**Performance Bond Estimate**  
**June 4, 2013**

Description	Unit	Quantity	Unit Price	Total
Swales	LS	1	\$9,535.00	\$9,535.00
Temp Turnaround	LS	1	\$3,148.00	\$3,148.00
Drywells	EA	4	\$2,400.00	\$9,600.00
Sidewalk	SF	9,250	\$3.28	\$30,340.00
Rolled Curb and Gutter	LF	1,900	\$13.53	\$25,707.00
ADA Ramps Type C	EA	4	\$865.00	\$3,460.00
Curb Drops	EA	14	\$92.00	\$1,288.00
Signage	LS	1	\$1,470.00	\$1,470.00
Gravel and Asphalt (4" & 2")	SY	3,646	\$10.87	\$39,632.02
Property Monuments	EA	1	\$1,750.00	\$1,750.00
Staking, Engineering, Etc.	LS	1	\$2,500.00	\$2,500.00

Total: \$128,430.02  
150% Bond Increase: \$64,215.01  
Grand Total: \$192,645.03

**EXHIBIT "A"**

IRREVOCABLE STANDBY  
LETTER OF CREDIT NO. 24590  
DATE: June 10, 2013  
AMOUNT: \$192,645.03

City of Coeur d'Alene  
Attn: Chris Bates  
710 E. Mullan Ave  
Coeur d'Alene, ID 83816

Ladies and Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit No. 24590 in your favor for the account of Mulligan Investments, LLC, 1250 Northwood Center Ct., Ste A, Coeur d'Alene, ID 83814, up to the aggregate amount of One Hundred Ninety Two Thousand Six Hundred Forty Five and 03/100-----Dollars (\$192,645.03) U.S. currency, available by your draft(s) drawn at sight on us and presented to Washington Trust Bank on or before June 10, 2014, covering improvements at Landings 10th Addition to include: Swales, Temp Turnaround, Drywells, Sidewalks, Rolled Curb/Gutter, Ada Ramps, Curb Drops, Signage, Gravel/Asphalt, Property Monuments and Staking/Engineering, and accompanied by the following:

1. Beneficiary's signed statement certifying that: "Mulligan Investments, LLC, has failed to comply with the terms and conditions of the Agreement to perform subdivision work between Mulligan Investments, LLC, and the City of Coeur d'Alene, for improvements at Landings 10<sup>th</sup> Addition and that the amount drawn represents monies due the City of Coeur d'Alene."
2. Original of this Letter of Credit.

All drafts presented under the credit must contain the clause "Drawn under Washington Trust Bank Letter of Credit No. 24590".

Any and all banking charges, other than those of the issuing bank, are for the account of the beneficiary.

We hereby engage with the drawers and bona fide holders of drafts drawn under and in compliance with the terms of this Letter of Credit that the drafts will be duly honored upon presentation and delivery of documents, as specified, to Washington Trust Bank, Loan Service Center, 176 South Post Street., Spokane, Washington 99201, on or before June 10, 2014.

All drawings under this credit will be governed by the Uniform Customs & Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600.

Sincerely,

  
Connie M. Bischoff  
Regional Senior Vice President  
Washington Trust Bank

**CITY COUNCIL  
STAFF REPORT**

**DATE:** June 18, 2013  
**FROM:** Christopher H. Bates, Engineering Project Manager  
**SUBJECT:** Mill River 4<sup>th</sup> Addition, Final Plat Approval

CB

---

**DECISION POINT**

Staff is requesting the following:

1. Approval of the final plat document, a two (2) lot commercial/residential development in a C-17 zone.

**HISTORY**

- a. Applicant: Steve White  
Crystal Creek, LLC  
PO Box 949  
Hayden, ID 83835
- b. Location: On Seltice Way between the single family residential area of the Mill River development, and the southerly right-of-way of Seltice Way, directly west of Grand Mill Lane.
- c. Previous Action: Preliminary plat approval in February 2013.

**PERFORMANCE ANALYSIS**

The developer is constructing multi-family apartments (which are permitted in the C-17 zone) on Lot 1, and a future commercial venture on the smaller Lot 2. All of the infrastructure has been previously installed during the site development phase of the residential construction and is existing.

**FINANCIAL ANALYSIS**

There are no financial issues with this commercial plat.

**DECISION POINT RECOMMENDATION**

1. Approve the final plat document.

MILL RIVER FOURTH ADDITION

A REPLIT OF LOT 1, BLOCK 1 OF MILL RIVER SECOND ADDITION  
LYING IN SECTION 4, TOWNSHIP 50 NORTH, RANGE 4 WEST, BOISE MERIDIAN,  
CITY OF GOEUR DALENE, KOOTENAI COUNTY, IDAHO

LYING IN SECTION 4, TOWNSHIP 4 NORTH, RANGE 4 WEST, BOISE MERIDIAN,  
CITY OF COEUR DALENE, KOOTENAI COUNTY, IDAHO



## **ANNOUNCEMENTS**

**OTHER COMMITTEE MINUTES**  
**(Requiring Council Action)**

June 10, 2013  
**GENERAL SERVICES COMMITTEE**  
**MINUTES**  
**12:00 p.m., Library Community Room**

**COMMITTEE MEMBERS PRESENT**

Mike Kennedy, Chairperson  
Ron Edinger  
Steve Adams

**CITIZENS PRESENT**

Steve Wilson, President - Chamber of Commerce  
Emmett Sullivan, Sully's Pub  
Tom Hasslinger, CdA Press

**STAFF PRESENT**

Warren Wilson, Chief Civil Deputy City Attorney  
Kathy Lewis, Deputy City Clerk  
Juanita Knight, Senior Legal Assistant  
Troy Tymesen, Finance Director  
Renata McLeod, City Clerk  
Wendy Gabriel, City Administrator

**Item 1. Amendment to Municipal Code Chapter 5.28 – Massage Facilities and Spas.**  
**(CB No. 13-1012)**

Kathy Lewis, Deputy City Clerk, is requesting amendments to Municipal Code Chapter 5.28 eliminating the individual Massage Therapist license and ensuing enforcement,, as the State of Idaho will begin issuing licenses on July 1, 2013.

Mrs. Lewis noted in her staff report that the City has licensed individual massage therapists and owners of massage facilities as no state license existed. The Idaho legislature passed legislation for the Idaho Board of Occupational Licensing to begin massage licensing effective July 01, 2013. During the 2013 session, house rules were adopted and as part of the legislation local entities may no longer issue individual therapist licenses. The City may retain massage facility licensing and require all owners to undergo a Criminal History background check to determine suitability of operating a business where the clientele may be vulnerable.

Councilman Adams asked if the facilities be required to have a separate state license. Mrs. Lewis responded no.

**MOTION: by Councilman Adams, seconded by Councilman Edinger, to recommend that Council adopt Council Bill No. 13-1012 approving the amendments to Municipal Code Chapter 5.28 MASSAGE FACILITIES AND SPAS as presented.**

**Item 2. Lease of City owned parking lots to the Coeur d'Alene Chamber of Commerce on the 4<sup>th</sup> of July.**  
**(Consent Resolution No. 13-036)**

Troy Tymesen, Finance Director, and Steve Wilson, Chamber of Commerce, is requesting approval to lease the City owned parking lots to the Chamber of Commerce on the 4<sup>th</sup> of July to generate revenue that will be used exclusively to defray the cost of the community fireworks display.

Mr. Tymesen noted in the staff report that this proposal from the Chamber and previously recommended by the Parking Commission is to allow the Chamber to lease the City owned lots for \$5,310.00, which is the projected revenue to the Parking Fund for the 4<sup>th</sup> of July event parking day. This would be the fourth year of this partnership. The Chamber is proposing to charge \$15.00 per car for parking on the 4<sup>th</sup> of July in order to generate income to assist with the cost of the fireworks display. The estimated cost of the fireworks display is

\$30,000.00. The Chamber has taken on more responsibility for the traffic control expense on that day, by paying for 17 flaggers. This proposal includes the following parking lots: Museum, Memorial Field, Independence Point, 4<sup>th</sup> and Coeur d' Alene as well as the upper Library lot and the paved lot south of City Hall and the lower City Hall parking lot bordering McEuen Field.

Councilman Kennedy asked Troy to include in the lease agreement verbiage that specifically states that this is to generate revenue that will be used exclusively to defray the cost of the community fireworks display for the 4<sup>th</sup> of July.

Steve Wilson noted that the parade as well as other festivities that day is put on by the Chamber of Commerce.

Councilman Adams said he has not personally received any comments, either way, on this topic.

Councilman Edinger asked what time they will begin charging. Mr. Wilson said they would begin in the morning, before the parade starts.

**MOTION: by Councilman Adams, seconded by Councilman Edinger, to recommend that Council adopt Resolution No. 13-036 approving the lease of City owned parking lots to the Chamber of Commerce on the 4<sup>th</sup> of July to generate revenue that will be used exclusively to defray the cost of the community fireworks display.**

**Item 3.        Encroachment Agreement along Park Drive with Sully's Pub (5735 Government Way)  
(Consent Resolution No. 13-036)**

Warren Wilson, Chief Civil Deputy City Attorney, is recommending Council approve an encroachment agreement to allow Sully's Pub to continue encroaching onto the right of way for Park Avenue.

Mr. Wilson noted in the staff report that the structure currently housing Sully's Pub encroaches into the right of way for Park Ave. by an approx. 6 - 8 feet. The structure was constructed many years ago. The City has no current plans to further improve Park Ave. and at this point the encroachment is not interfering with the public's use of Park Ave. The owner has asked for an encroachment agreement to document the status of the building. Under the agreement, the applicant bears all costs for removal of the encroachment in the future if the City ever needs to use the right of way.

Emmett Sullivan, Sully's Pub, said he had met with Mike Gridley, City Attorney, and they discussed the encroachment would stay in effect until either the building was destroyed or the owner applies for a building permit for improvements exceeding \$30,000 or \$40,000. Mr. Sullivan said moving the building is impractical. The building encroaches 4½ feet into the right of way. Originally the survey showed the building on his property but it's been moving north ever since the late 1920's.

Councilman Kennedy asked for clarification of "it's been moving".

Mr. Sullivan said the building was originally a Farragut building put in after the war. The building has not been moved but every time it's surveyed, the encroachment keeps moving south into the building. At least 3 surveys have been done and none of them are exactly the same. He doesn't believe anyone knew it was encroaching until 1994 when Fred Barns was going to build on the back and had it surveyed.

Councilman Kennedy said he understands this agreement is to clarify, for the benefit of Mr Sullivan, should he want to transfer the business ownership. However, should the City need the property for any reason, with notice, it can be granted back. Mr. Wilson said that is correct.

**MOTION: by Councilman Edinger, seconded by Councilman Adams, to recommend that Council adopt Resolution No. 13-036 approving the encroachment agreement to allow Sully's Pub to continue encroaching onto the right of way for Park Avenue.**

The meeting adjourned at 12:15 p.m.

Respectfully submitted,

*Juanita Knight*  
Recording Secretary

**GENERAL SERVICES COMMITTEE**  
**STAFF REPORT**

**From:** Kathy Lewis, Deputy City Clerk and Renata McLeod, City Clerk

**Date:** May 28, 2013

**Re:** Massage Therapist Licensing

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**Decision Point:** Should the City Council adopt the changes to the Municipal Code Section 5.28 eliminating the individual Massage Therapist license and ensuing enforcement, as the State of Idaho will begin issuing licenses on July 01, 2013.

**History:** The City has licensed individual massage therapists and owners of massage facilities as no state license existed. The Idaho legislature passed legislation for the Idaho Board of Occupational Licensing to begin massage licensing effective July 01, 2013. During the 2013 session, house rules were adopted and as part of the legislation local entities may no longer issue individual therapist licenses. The City may retain massage facility licensing and require all owners to undergo a Criminal History background check to determine suitability of operating a business where the clientele may be vulnerable.

**Quality of Life:** Law enforcement will still be able to determine where the facilities exist and the hours of operation and all other facility requirements will remain in place. The authority for enforcement of the individual therapists will now move to the State level.

**Financial Impact:** The City will no longer receive the revenue nor will it incur cost associated from individual licensing; however, the City will continue to issue facility licenses and will received revenue to cover processing and enforcement costs.

**Decision Point:** Staff is recommending the adoption of the proposed amendments to Municipal Code Section 5.28 that eliminate licensing and enforcement of individual massage therapist licenses effective July 01, 2013.

ORDINANCE NO. \_\_\_\_  
COUNCIL BILL NO. 13-1012

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTIONS 5.28.020, 5.28.040, 5.28.050, 5.28.060, 5.28.070, 5.28.080, 5.28.090 AND REPEALING SECTIONS 5.28.021, 5.28.110 AND 5.28.170 TO REPEAL THE REQUIREMENTS FOR CITY LICENSURE OF MASSAGE THERAPISTS; PROVIDING REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after recommendation by 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 5.28.020, is hereby amended to read as follows:*

**5.28.020: LICENSE; MASSAGE FACILITY, SPA AND MASSAGE THERAPIST; REQUIRED:**

It is unlawful for any person to operate, conduct, carry on or maintain a massage facility or spa or engage in the business of ~~a massage therapist, or be a massage therapist or spa employee~~ therapy in the city limits without first obtaining a license to do so. The following persons shall be exempt from this chapter:

- A. Persons authorized by the law of the state of Idaho to practice medicine, surgery, osteopathy, chiropody, physical therapy, chiropractic, podiatry, or persons holding a drugless practitioners' certificate under the state of Idaho;
- B. ~~Nurses, registered or licensed pursuant to the laws of the state of Idaho. Orderlies, attendants or nurses aides in hospitals with clinics, or under the direction of a physician licensed in Idaho;~~
- C. ~~Members in good standing of the American Massage Therapy Association (AMTA), or members of the Associated Bodywork Massage Professional (ABMP) levels one through five, or licensed by the state of Washington health department massage therapy division;~~
- D. ~~All persons desiring to qualify for the exemption allowed by subsection C of this section shall make application for certificate of exemption to the licensing officer in the manner required by this chapter and by showing that the applicant for exemption is a member of good standing of the above named associations, or licensed by the state of Washington.~~

**SECTION 2 . That Coeur d'Alene Municipal Code Section 5.28.021, is hereby repealed:**

**5.28.021: APPLICATION FOR EXEMPTION OF CERTIFICATE:**

~~Any person desiring to apply for an exemption pursuant to subsection 5.28.020C of this chapter shall make annual application for a certificate of exemption to the city license officer. All applications for a certificate of exemption shall provide with the application at least the following:~~

- ~~A. The name and residence address of the applicant.~~
- ~~B. The business address of the applicant.~~
- ~~C. The date of birth, social security number, and motor vehicle license number if applicable.~~
- ~~D. The professional association or license under which the applicant claims exemption.~~

**SECTION 3 . That Coeur d'Alene Municipal Code Section 5.28.040, is hereby amended to read as follows:**

**5.28.040: LICENSE; MASSAGE FACILITY AND SPA; APPROVAL:**

Approval of the ~~city council~~City Council shall be secured by each applicant for a massage facility or spa license before the issuance of any license for such by the ~~city clerk~~City Clerk pursuant to this chapter. ~~It is unlawful for any person to act as a massage therapist or a spa employee or to hold himself or herself out as a massage therapist or a spa employee or to administer or offer or agree to administer any massage or bath for any fee, compensation, consideration or the expectation thereof without first obtaining a current and valid massage therapist license or spa employee license issued pursuant to the provisions contained herein, which shall be posted as required by this chapter, and it~~It is unlawful for any owner, proprietor, manager or person in charge of any massage facility or spa to allow any person to act as a massage therapist or a spa employee who has not first obtained such license ~~from the State of Idaho, Board of Occupational Licensing. One license shall be required hereby for a massage therapist or spa employee and such license shall permit activities as a massage therapist or a spa employee or both.~~

**SECTION 4 . 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~~ facility 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 enacted by resolution of the City Council~~. Each application for a ~~massage therapist or spa employee license~~ massage facility or spa 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~~ To determine suitability of prospective applicants for licensing with the ~~city~~City of Coeur d'Alene, the Coeur d'Alene ~~city clerk~~City Clerk or his/her designee shall require each specified applicant to provide information and

fingerprints necessary to obtain criminal history information from the Idaho state police and the federal bureau of 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 state 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 state police. The ~~city~~City of Coeur d'Alene is authorized to receive criminal history information from the Idaho state police and from the federal bureau of 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. Each application shall be in writing and shall contain the following information:

- A. The name, home address, telephone numbers, email address, 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~~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 may issue a provisional license to an applicant if the 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 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 5 . That Coeur d'Alene Municipal Code Section 5.28.060, is hereby amended to read as follows:**

**5.28.060: LICENSE; MASSAGE ~~THERAPIST~~FACILITY; 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, but may be granted after proper application to and background investigation by the city clerk.~~

~~CB.~~ The ~~city clerk~~City Clerk may also include and request additional information in the applications which is deemed reasonable and necessary for proper investigation.

**SECTION 6.** *That Coeur d'Alene Municipal Code Section 5.28.070, is hereby amended to read as follows:*

**5.28.070: LICENSE; MASSAGE FACILITY, SPA AND MASSAGE THERAPIST; DISPLAY REQUIRED:**

Every massage facility or spa licensed pursuant to the provisions of this chapter and the premises occupied and used for the purposes of enabling a massage therapist ~~licensed under this chapter~~ to carry on the trade, business or profession of a massage ~~therapist therapy~~, shall display in a conspicuous place on the premises the massage facility or spa license, and any massage therapist's license duly issued by the ~~city~~ State covering the current period, together with a notice listing all persons employed in the massage facility or spa or engaged in the pursuit of a massage therapist under the license. This notice shall be in a type which can easily be read by persons entering the premises.

**SECTION 7.** *That Coeur d'Alene Municipal Code Section 5.28.080, is hereby amended to read as follows:*

**5.28.080: LICENSE FEE; MASSAGE FACILITY OR SPA:**

The fee for a massage facility or spa license shall be tendered at such time as the application is made for the issuance or renewal of such license and in an amount set by the ~~city council~~City Council as set forth ~~in section 5.60.020 of this title~~ by resolution. All fees required by section 5.60.020 of this title for a criminal history check shall be tendered at such time as the application is made for the issuance of such license.

**SECTION 8.** *That Coeur d'Alene Municipal Code Section 5.28.090, is hereby amended to read as follows:*

**5.28.090: LICENSE; TERM OF VALIDITY; RENEWAL:**

Licenses issued pursuant to this chapter shall be valid only until the first day of the following calendar year and may be renewed annually by filing an application for renewal with, and paying the fee designated ~~in section 5.28.080 of this chapter~~ by resolution, to the ~~city clerk~~City Clerk or his/her duly authorized representative.

**SECTION 9.** *That Coeur d'Alene Municipal Code Section 5.28.100, is hereby amended to read as follows:*

**5.28.100: DENIAL, SUSPENSION OR REVOCATION OF MASSAGE FACILITY OR**

## **SPA LICENSE:**

| The ~~city clerk~~[City Clerk](#) may refuse issuance of any massage facility or spa license, and he/she may order the suspension or revocation of such license upon his/her finding after such investigation or hearing as he/she deems necessary that:

- A. Such license was issued illegally or by mistake or inadvertence or was procured by fraud, misrepresentation, false or misleading statements, evasions or suppressions of material facts or that any of the material facts contained in the application for such license are false; or
- B. Any person owning an interest or sharing in the profits of such business, including any corporate stockholders, or, if a corporation, any officer or director thereof, or any person acting as proprietor, manager or person in charge of such business:
  - 1. Has been convicted within the past five (5) years of any felony or of any violation of any federal, state or local law relating to sex offenses or to the possession, use or sale of drugs or controlled substances, or to the sale of alcoholic beverages, or of any act or omission in violation of this chapter or ordinance amendatory thereof, or of any crime involving moral turpitude, or has forfeited a bond to appear in court for any of the foregoing offenses; or
  - 2. Has been guilty of any act or omission in violation of this chapter or ordinance amendatory thereof or any misconduct or improper, fraudulent, or wrongful behavior relating to the giving of massages or baths or to the management of massage facilities or spas or to the fitness of such person to engage in such business, or of any act or default which is discreditable to such business or which is lewd or dissolute; or
  - 3. Is not of good moral character; or
  - 4. Was previously sharing in the profits of any massage facility or spa or, if a corporation, was acting as officer or director thereof, or was acting as proprietor, manager or person in charge of such business at a time when any license issued pursuant to this chapter for such business was revoked; or
- C. Any servant, agent, employee or representative of such business has been guilty of any act or omission while on the premises of such business which is in violation of this chapter or ordinance amendatory thereof or of any misconduct or improper, fraudulent or wrongful behavior relating to the giving of massages or baths or to the fitness of such person to engage in such business or of any act or default which is discreditable to such business or which is lewd or dissolute; if:
  - 1. The circumstances surrounding any of the foregoing acts or omissions are such as to establish a lack of adequate supervision or control or are such as to establish that such act or omission was knowingly allowed by any person sharing in the profits of said business or, if a corporation, any officer or director thereof, or of any person acting as proprietor, manager or person in charge of such business; or
  - 2. In any event, if three (3) or more such acts or omissions have occurred on the premises of such business within a period of two (2) years;
- D. Such denial, suspension or revocation is necessary to protect the public safety, morals or welfare or the operation of such business would be detrimental thereto or in violation of any federal, state or local law;
- E. The holder of any massage facility license or spa license and all persons owning an interest or

sharing in the profits of such business, including any corporate stockholders, and, if a corporation, all officers and directors thereof, and all persons acting as proprietor, manager or person in charge of such business shall be held strictly liable and shall be responsible and accountable for any act or omission of each other and under the provisions of this section and for any act or omission of any servant, agent, employee or representative of such business as provided by subsection C of this section, if such acts or omissions establish a lack of adequate supervision or control or were knowingly allowed or have occurred three (3) or more times within a period of two (2) years.

**SECTION 10 . That Coeur d'Alene Municipal Code Section 5.28.110, is hereby repealed:**

**5.28.110: DENIAL, SUSPENSION OR REVOCATION OF MASSAGE THERAPIST OR SPA EMPLOYEE LICENSE:**

~~The city clerk may refuse issuance of any massage therapist or spa employee license, and he/she may order the suspension or revocation of such license upon his/her finding after such investigation or hearing as he/she deems necessary that:~~

- ~~A. Such license was issued illegally or by mistake or inadvertence or was procured by fraud, misrepresentation, false or misleading statements, evasions or suppression of material facts or that any of the material facts contained in the application for such license are false; or~~
- ~~B. The applicant or holder of such license has been convicted within the last five (5) years of any felony or of any violation of federal, state or local law relating to sex offenses or to the possession, use or sale of drugs, controlled substances or to the sale of alcoholic beverages, or of any act or omission in violation of this chapter or ordinance amendatory thereof, or of any crime involving moral turpitude or has forfeited a bond to appear in court for any of the foregoing offenses; or~~
- ~~C. The applicant or holder of such license has been guilty of any act, or omission in violation of this chapter or ordinance amendatory thereof or of any misconduct or improper, fraudulent or wrongful behavior relating to the giving of massages or baths or to the management of massage facilities or spas or to the fitness of such person to engage in such business, or of any act or default which is discreditable to such business or which is lewd or dissolute; or~~
- ~~D. The applicant or holder of such license is not of good moral character; or~~
- ~~E. The applicant or holder of such license has acted in a manner which endangers the public health, safety, morals or welfare while on the premises of any massage facility or spa, or that issuance of such license would be detrimental thereto or in violation of any federal, state or local law.~~

**SECTION 11 . That Coeur d'Alene Municipal Code Section 5.28.160, is hereby repealed:**

**5.28.170: NOTIFICATION OF PLACE OF EMPLOYMENT:**

~~It is unlawful for any person to act as a massage therapist or spa employee without first notifying the city clerk in writing of the business name, business address and telephone number of the establishment or establishments at which said person is employed. Any massage therapist or spa employee changing the location of his employment shall first notify the city clerk in writing of such change.~~

**SECTION 12. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.**

**SECTION 13.** 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 14.** 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 15.** 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 18<sup>th</sup> day of June, 2013.

ATTEST:

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Sandi Bloem, Mayor

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Renata McLeod, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. \_\_\_\_\_  
Amending Municipal Code Chapter 5.28 entitled MASSAGE FACILITIES AND SPAS

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTIONS 5.28.020, 5.28.040, 5.28.050, 5.28.060, 5.28.070, 5.28.080, 5.28.090 AND REPEALING SECTIONS 5.28.021, 5.28.110 AND 5.28.170 TO REPEAL THE REQUIREMENTS FOR CITY LICENSURE OF MASSAGE THERAPISTS; PROVIDING REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY. 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.

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Renata McLeod, 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 Municipal Code Chapter 5.28 entitled MASSAGE FACILITIES AND SPAS, 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 18<sup>th</sup> day of June, 2013.

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Warren J. Wilson, Chief Deputy City Attorney

## **PUBLIC HEARINGS**

**CITY COUNCIL  
STAFF REPORT**

FROM: TAMI A. STROUD, PLANNER  
DATE: JUNE 18, 2013  
SUBJECT: A-1-13 – ZONING IN CONJUNCTION WITH ANNEXATION  
**LOCATION – +/- 22.23 ACRES KNOWN AS THE WESTERN HALF OF  
THE OLD ATLAS MILL SITE- LYING BETWEEN SELTICE WAY AND  
THE SPOKANE RIVER**

**Applicant:** Verdis  
602 E. Garden Avenue  
Coeur d'Alene, ID 83814

**Property owner:** Washington Trust Bank  
717 West Sprague Avenue  
Spokane, WA 99210-2127

**DECISION POINT:**

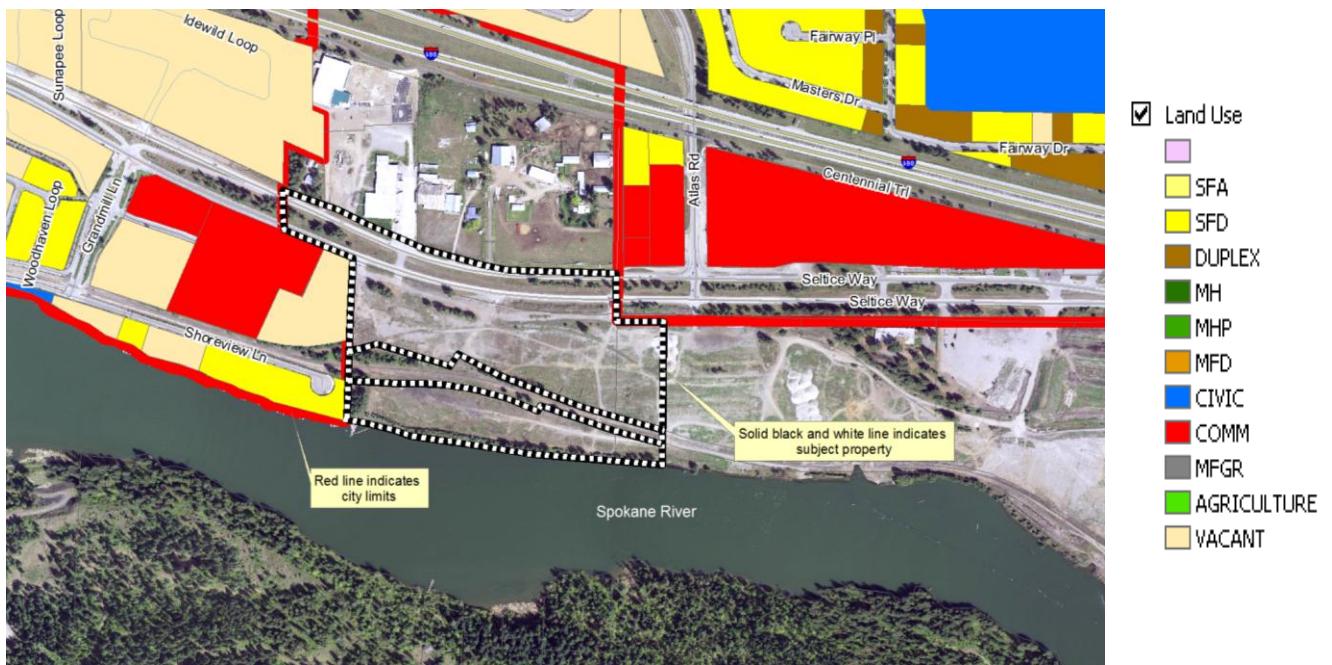
Verdis on behalf of Washington Trust Bank, is requesting Zoning Prior to Annexation from County Industrial to C-17 (Commercial) and R-12 (Residential at 12 units/acre) zoning districts.

**GENERAL INFORMATION:**

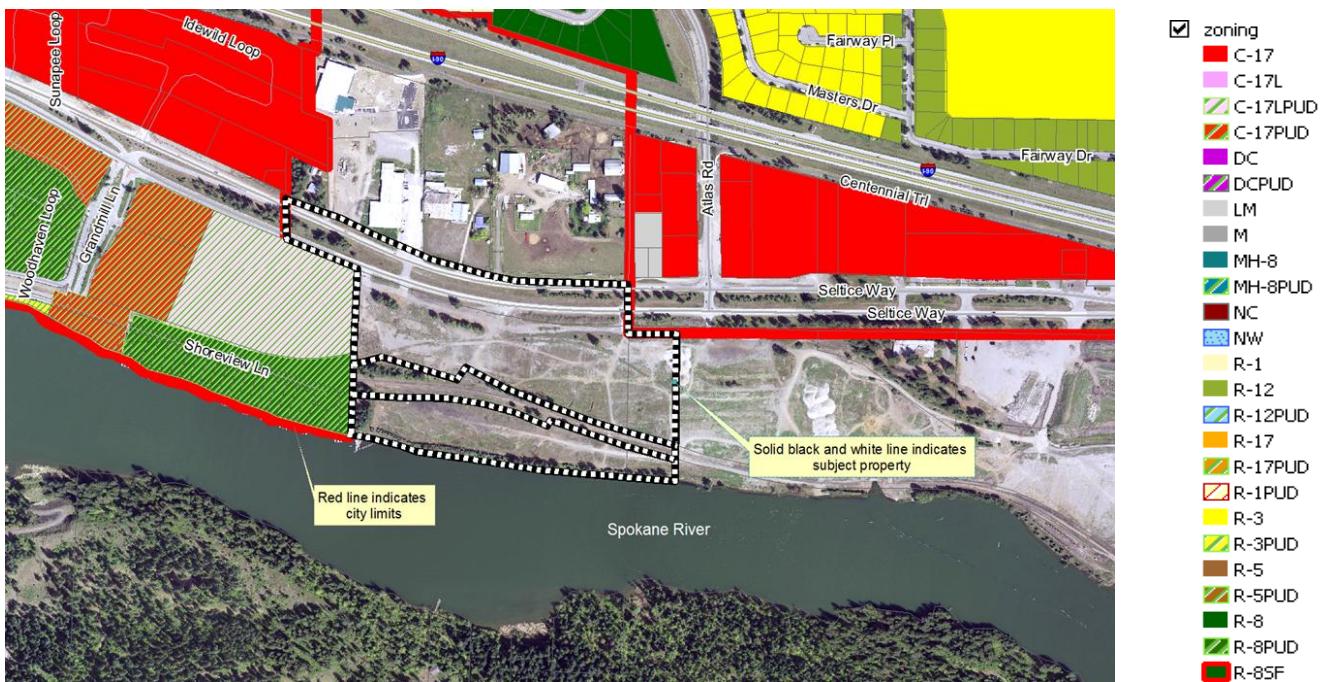
A. Aerial photo



B. Generalized land use pattern:



C. Zoning:



D. Proposed zoning:



- E. Land uses in the area include single-family residential, multi-family, mobile homes, commercial, and vacant land.
- F. The subject property was the former site of the Old Atlas mill site. It is now vacant land with a tree cover of Ponderosa pine and other native conifers.

**PERFORMANCE ANALYSIS:**

A. **Zoning:**

1. The proposed zoning for the annexation is as follows:  
**Parcel 1: C-17 (Commercial at 17 units/acre) – 14.82 Acres.**

**Purpose and Intent:**

The requested C-17 zoning district is intended as a broad spectrum commercial district that permits limited service, wholesale/retail and heavy commercial in addition to allowing residential development at a density of seventeen (17) units per gross acre. It should be located adjacent to arterials; however, joint access developments are encouraged:

**Uses permitted by right:**

1. Single-family detached housing (as specified by the R-8 District).
2. Duplex housing (as specified by the R-12 District).
3. Cluster housing (as specified by the R-17 District).
4. Multiple-family (as specified by the R-17 District).
5. Home occupations.
6. Community education.
7. Essential service.
8. Community assembly.
9. Religious assembly.
10. Public recreation.
11. Neighborhood recreation.
12. Commercial recreation.
13. Automobile parking when serving an adjacent business or apartment.
14. Hospitals/health care.
15. Professional offices.
16. Administrative offices.
17. Banks and financial institutions.
18. Personal service establishments.
19. Agricultural supplies and commodity sales.
20. Automobile and accessory sales.
21. Business supply retail sales.
22. Construction retail sales.
23. Convenience sales.
24. Department stores.
25. Farm equipment sales.
26. Food and beverage stores, on/off site consumption.
27. Retail gasoline sales.
28. Home furnishing retail sales.
29. Specialty retail sales.
30. Veterinary office.
31. Hotel/motel.
32. Automotive fleet storage.
33. Automotive parking.
34. Automobile renting.
35. Automobile repair and cleaning.
36. Building maintenance service.
37. Business support service.
38. Communication service.
39. Consumer repair service.
40. Convenience service.
41. Funeral service.
42. General construction service.
43. Group assembly.
44. Laundry service.
45. Finished goods wholesale.
46. Group dwelling-detached housing.
47. Mini-storage facilities.
48. Noncommercial kennel.
49. Handicapped or minimal care facility.
50. Rehabilitative facility.
51. Child care facility.
52. Juvenile offenders facility.
53. Boarding house.
54. Commercial kennel.
55. Community organization.
56. Nursing/convalescent/rest homes for the aged.
57. Commercial film production.

**Uses allowed by special use permit:**

1. Veterinary hospital.
2. Warehouse/storage.
3. Custom manufacturing.
4. Extensive impact.
5. Adult entertainment sales and service.
6. Auto camp.
7. Residential density of the R-34 district as specified.
8. Underground bulk liquid fuel storage-wholesale.
9. Criminal transitional facility.
10. Wireless communication facility.

## **Parcel 2: R-12 (Residential at 12 units/acre) -7.14 Acres**

This district is intended as a residential area that permits a mix of housing types at a density of not greater than 12 units per gross acre. This district is intended for those areas of the city that are developed at this density or are preferably developed at this density because of factors such as vehicular access, topography, flood hazard and landslide hazard.

### **R-12 Zoning District:**

#### **Uses permitted by right:**

1. Administrative
2. Duplex housing
3. Essential service (underground)
4. Home occupation
5. Neighborhood recreation
6. Pocket residential development
7. Public recreation
8. Single-family detached housing

4. Commercial recreation
5. Community assembly
6. Community education
7. Community organization
8. Convenience sales
9. Essential service (aboveground)
10. Group dwelling - detached housing
11. Handicapped or minimal care facility
12. Juvenile offenders facility
13. Noncommercial kennel
14. Religious assembly
15. Restriction to single-family only

#### **Uses permitted by special use permit:**

1. Boarding house
2. Childcare facility
3. Commercial film production

- A. With annexation, that portion of the subject property along the Spokane River 150-feet inland from the summer level of the Spokane River would fall under the City's Shoreline Regulations, which are intended to protect, preserve and enhance visual resources and public access to the shoreline, as follows:
1. From the summer level of the Spokane River 40-feet inland is a "prohibited construction zone".
  2. In the remainder of the Shoreline overlay zone:
    - A. The maximum building height for new structures is 30-feet.
    - B. A minimum side yard equal to 20% of the average width of the lot is required.
- B. Low lying areas along the Spokane River within the 100-year flood zone would be subject to the requirements of the City's Flood Hazard Area Regulations.

*Evaluation:* The zoning is generally compatible with the existing development in the area.

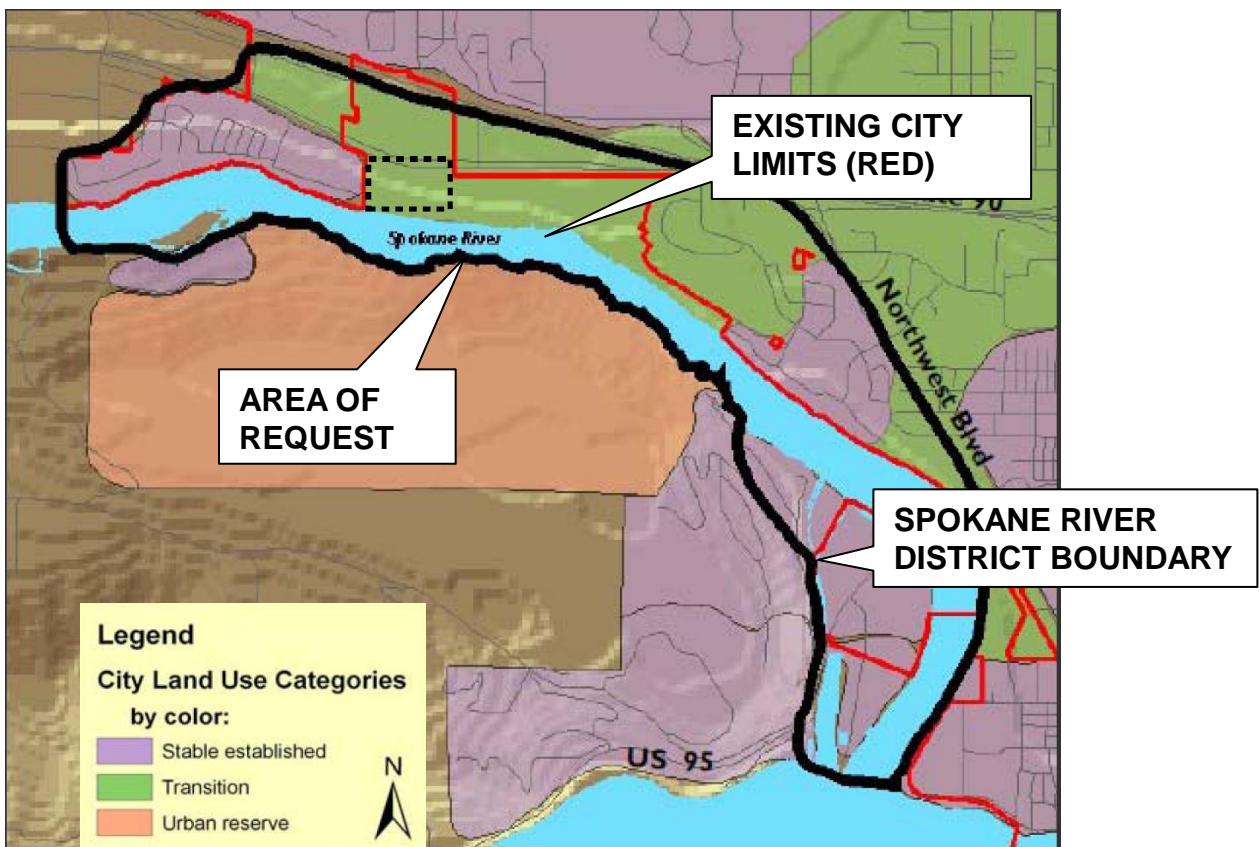
### **FINDINGS:**

- Finding #B8: That this proposal (is) (is not) in conformance with the Comprehensive Plan policies.**
1. The subject property is within the Area of City Impact Boundary.
  2. The subject property has a land use designation of Transition

#### **Transition Areas:**

These areas are where the character of neighborhoods is in transition and should be developed with care. The street network, the number of building lots and general land use are expected to change greatly within the planning period.

## 2007 COMPREHENSIVE PLAN MAP: SPOKANE RIVER DISTRICT



### Significant Policies:

- Objective 1.01 - Environmental Quality:  
Minimize potential pollution problems such as air, land, water, or hazardous materials.
- Objective 1.02 – Water Quality:  
Protect the cleanliness and safety of the lakes, rivers, watersheds, and the aquifer.
- Objective 1.04 –Waterfront Development:  
Provide strict protective requirements for all public and private waterfront developments.
- Objective 1.05 -Vistas:  
Protect the key vistas and view corridors of the hillsides and waterfronts that make Coeur d'Alene unique.
- Objective 1.12 - Community Design:  
Support the enhancement of existing urbanized areas and discourage sprawl.
- Objective 1.14 - Efficiency:  
Promote the efficient use of existing infrastructure, thereby reducing impacts to undeveloped areas.

- Objective 2.01 - Business Image & Diversity:  
Welcome and support a diverse mix of quality professional, trade, business, and service industries, while protecting existing uses of these types from encroachment by incompatible land uses.
- Objective 2.02 - Economic & Workforce Development:  
Plan suitable zones and mixed use areas, and support local workforce development and housing to meet the needs of business and industry.
- Objective 3.05 - Neighborhoods:  
Protect and preserve existing neighborhoods from incompatible land uses and developments.
- Objective 3.06 - Neighborhoods:  
Protect the residential character of neighborhoods by allowing residential/commercial/industrial transition boundaries at alleyways or along back lot lines if possible.
- Objective 3.16 - Capital Improvements:  
Ensure infrastructure and essential services are available prior to approval for properties seeking development.
- Objective 4.01 - City Services:  
Make decisions based on the needs and desires of the citizenry.
- Objective 4.02 - City Services:  
Provide quality services to all of our residents (potable water, sewer and stormwater systems, street maintenance, fire and police protection, street lights, recreation, recycling, and trash collection).
- Objective 4.06 - Public Participation:  
Strive for community involvement that is broad-based and inclusive, encouraging public participation in the decision-making process.

**Finding #B9: That public facilities and utilities (are)(are not) available and adequate for the proposed use.**

**SEWER:**

The Wastewater Collection System is available and has adequate capacity to serve the proposed areas to be annexed. The Wastewater Treatment Plant also has sufficient capacity to treat the flows from these areas.

Since Parcel One (14.82 acres) has a proposed zoning density (C-17) that will exceed the Wastewater Collection System Master Plan density of 11.8 Equivalent Residential Units per Acre (ERU/ACRE) for this area, a sewer capitalization fee surcharge for densities in excess of the 11.8 ERU/ACRE may be applicable. This surcharge is currently being developed by Wastewater.

**WATER:**

For the proposed annexation of the Washington Trust property at the old Atlas Mill Site, there is water available to the western boundary of the southern parcel (along river). Water is also available along the western and northern boundaries of the north parcel. Extension of the mains would not be a condition for the proposed annexation but would be required for any proposed future development on either or both parcels. The issue would be at the time of development as to whether a public utility easement would be required to cross the railroad property to provide connectivity and redundancy if that parcel is not annexed prior to development.

**STREETS:**

The roadway to the north of the subject property is a four (4) lane, median divided highway (US Hwy 10) that is under the jurisdiction of both the City of Coeur d'Alene and the Post Falls Highway District. Access and improvement requirements will be addressed when the property develops. Participation in the signalization of the adjacent Atlas Road / Seltice Way intersection may be a component of any annexation agreement that deals with the subject property. The southerly parcel must have public right-of-way access within the City's jurisdiction prior to development.

**Finding #B10: That the physical characteristics of the site (make)(do not make) it suitable for the request at this time.**

The subject property has level terrain with no significant topographic features. A portion of the subject property (Parcel 2) begins to slope as it reaches the frontage along the Spokane River.

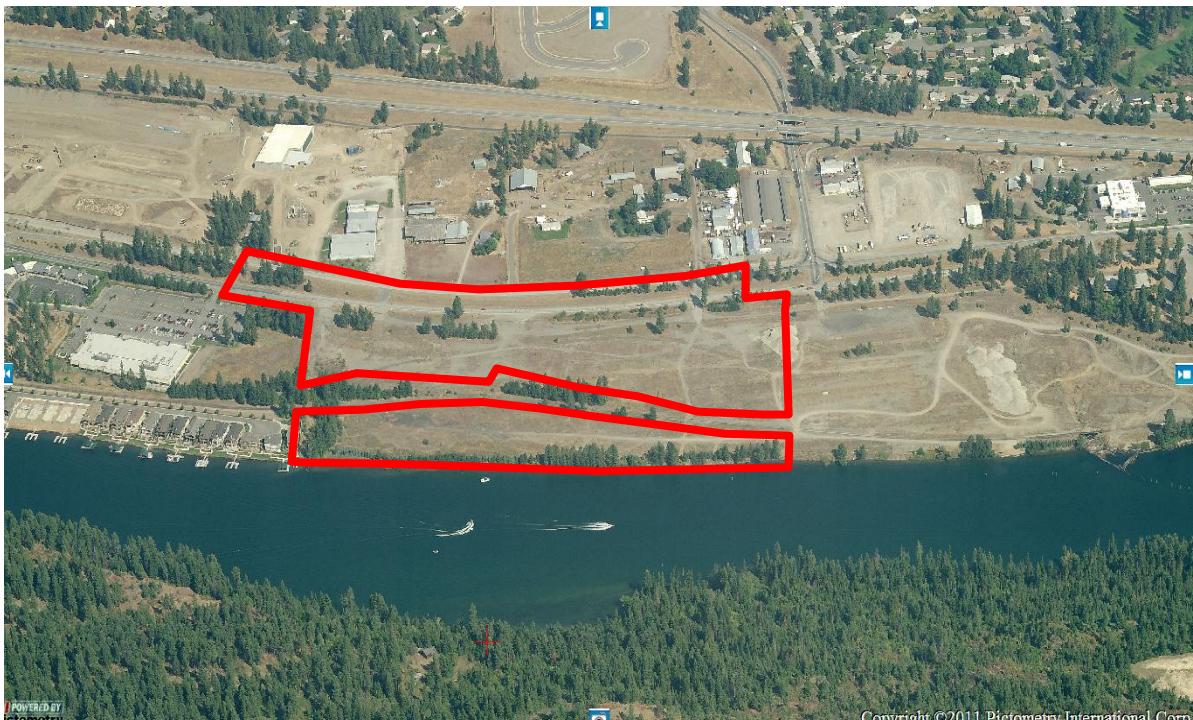
*Evaluation:* There are no physical limitations to future development.

**SITE PHOTO: LOOKING SOUTHEAST**

**SITE PHOTO: LOOKING WEST**



**BIRD'S EYE VIEW FROM SOUTH – Approximate location**



**Finding #B11:** That the proposal (would)(would not) adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (and)(or) existing land uses.

The subject property is adjacent to Seltice Way, which is designated as a minor arterial in the Transportation Plan and is the site of a former lumber mill. The surrounding area has a diverse land use pattern ranging from single-family dwellings and multi-family uses to a mixture of uses along Seltice Way including a mobile home park, commercial, manufacturing and the former Go Kart Fun Park. If there were a neighborhood character in the area, it would be the random mixture of residential, commercial and manufacturing uses that have been there for many years.

**E.       Ordinances and Standards Used In Evaluation:**

Comprehensive Plan - Amended 2007.

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.

**ACTION ALTERNATIVES:**

The City Council must consider this request and make appropriate findings to approve, deny or deny without prejudice. The findings worksheet is attached.



602 east garden avenue  
p. o. box 580  
coeur d' alene, idaho 83816  
tel.208.667.1214  
fax.208 765.2516

[www.verdisnw.com](http://www.verdisnw.com)

## Memo

To: City of Coeur d'Alene City Council

From: Sandy Young, President and Principal Planner *sy*

Date: June 11, 2013

Re: Washington Trust Bank Annexation Request of the former Atlas Mill Site

Thank you for your consideration of the Washington Trust Bank annexation application - a 22 acre site that is a portion of the former Atlas Mill site. The Planning Commission heard our request in a public hearing on May 14, 2013 and voted unanimously to approve it. Our hope is that you will do that same.

Earlier this year, Verdis obtained a Site Disturbance Permit from Kootenai County and a Construction General Permit from the EPA to clean up the site. Dead trees were removed along with brush, weeds and old mill debris. The berm along Seltice Way was removed and that area was seeded. Washington Trust's efforts speak for themselves in the attached pictures.

During grading operations, Allwest Testing and Engineering was hired to be on site to perform compaction testing in fill areas. These areas tested at 95% compaction or better. Allwest also completed a Phase 1 Environmental Study of the site which "did not identify any recognized environmental conditions in connection with the site". Washington Trust's intent, from the beginning, has been to prepare the site for marketing, first by environmentally reclaiming it and second by securing city entitlements.

We have also been working with Lake City Development Corporation to either annex into the current River District, or to form a new district of our own. In a letter dated May 13, 2013, the Lake City Development Corporation expressed encouragement and support of our efforts.

Verdis has made repeated attempts to include Stimson Lumber and BNSF in this annexation request. We believe that these properties will ultimately follow suit and request annexation as well. However, Washington Trust believes now is the time to step forward and begin the process. Annexation of this property is a first step in continuing communication with Stimson, BNSF, the City and LCDC to appropriately master plan the area, including the coordination of utilities, roads and bike trails.

We look forward to presenting this case to you at next Tuesday's hearing.



Old Atlas Road Site Entrance - Looking South



Old Atlas Road Site Entrance - Looking West (after removal of berm)



East Side of Site - Looking West



East Side of Site - Looking South



North Side of Site - Looking Southwest



South Side of Site (by River) - Looking West

Applicant: Washington Trust Bank  
Location: 3528 W. Seltice Way  
Request: A proposed 22.23 acre annexation "The Old Atlas Mill Site"  
LEGISLATIVE (A-1-13)

Planner Stroud presented the staff report and answered questions from the Commission.

**Public testimony open:**

Sandy Young, Applicant representative, 602 Garden Avenue, stated the site is owned by the bank with no immediate plans for development and presented a PowerPoint with various pictures of the property showing the attempts that the applicant has made to clean up the property. She added during the clean-up that the applicants took great care not to disturb the shoreline and after meeting with the EPA passed the inspection with flying colors. She then read a letter written by Denny Davis for the Lake City Development Corporation who supports this project. She than asked if the planning commission had any questions.

Commissioner Lutropp inquired if public access will be allowed

Ms. Young stated that public access will be allowed including future applications.

Amy Larsen, 3766 W. Shoreview Lane stated that she is representing the Riversedge Homeowners Association and that they do not oppose the annexation, but have a transient problem that needs to be addressed and requested a contact person so this problem could get resolved.

Ms. Young stated that she would be able to talk with Ms. Larsen after the meeting.

**Public testimony closed:**

***Motion by Messina, seconded by Lutropp, to approve Item A-1-13. Motion approved.***

**ROLL CALL:**

Commissioner Evans	Voted	Aye
Commissioner Messina	Voted	Aye
Commissioner Lutropp	Voted	Aye

Motion to approve carried by a 3 to 0 vote.

**COEUR D'ALENE PLANNING COMMISSION**  
**FINDINGS AND ORDER**

**A. INTRODUCTION**

This matter having come before the Planning Commission on May 14, 2013, and there being present a person requesting approval of ITEM A-1-13 , a request for zoning prior to annexation from County Industrial to C-17 (Commercial) and R-12 (Residential at 12 units/acre) zoning districts.

LOCATION – +/- 22.23 ACRES KNOWN AS THE WESTERN HALF OF THE OLD ATLAS MILL SITE- LYING BETWEEN SELTICE WAY AND THE SPOKANE RIVER

APPLICANT: VERDIS

**B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS**

**RELIED UPON**

- B1. That the existing land uses are single-family residential, multi-family, mobile homes, commercial, and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition.
- B3. That the zoning is County Industrial.
- B4. That the notice of public hearing was published on April 27, 2013, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was not required to be posted, which fulfills the proper legal requirement.
- B6. That 25 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on April 26, 2013.
- B7. That public testimony was heard on May 14, 2013 by the applicant and the representative of the Riversedge Homeowners Association.
- B8. That this proposal is in conformance with the Comprehensive Plan policies as follows:

*Objective 1.02- Water Quality: Protect the cleanliness and safety of the lakes, rivers, watersheds, and the aquifer.*

*Objective 1.04- Waterfront Development: Provide strict protective requirements for all public and private waterfront developments.*

*Objective 1.05- Vistas: Protect the key vistas and view corridors of the hillsides and waterfronts that make Coeur d'Alene unique.*

*Objective 1.12 - Community Design: Support the enhancement of existing urbanized areas and discourage sprawl.*

*Objective 2.01 – Business Image & Diversity: Welcome and support a diverse mix of quality professional, trade, business, and service industries, while protecting existing uses of these types from encroachment by incompatible land uses.*

*Objective 2.02 – Economic & Workforce Development: Plan suitable zones and mixed use areas, and support local workforce development and housing to meet the needs of business and industry.*

*Objective 3.16 – Capital Improvements: Ensure infrastructure and essential services are available prior to approval for properties seeking development.*

*Objective 4.01 – City Services: Make decisions based on the needs and desires of the citizenry.*

*Objective 4.02 – City Services: Provide quality services to all of our residents (potable water, sewer and stormwater systems, street maintenance, fire and police protection, street lights, recreation, recycling, and trash collection).*

*Objective 4.06 – Public Participation: Strive for community involvement that is broad-based and inclusive, encouraging public participation in the decision-making process.*

- B9. That public facilities and utilities are available and adequate for the proposed use. This is based on the staff report.
- B10. That the physical characteristics of the site do make it suitable for the request at this time because the surrounding area includes both residential and commercial property. The property is level and the EPA and compaction reports have been done by the applicant.
- B11. That the proposal would not adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and existing land uses because the subject property is adjacent to Seltice Way and can handle traffic in this area.

In addition, the requested R-12 and C-17 zoning conforms with the comprehensive Land Use Analysis plan on page 69 regarding both commercial and residential mixed uses as well as densities that match the planning for our land use mapping.

**C. ORDER: CONCLUSION AND DECISION**

The Planning Commission, pursuant to the aforementioned, finds that the request of **VERDIS** for zoning prior to annexation, as described in the application should be approved.

Motion by Messina, seconded by Lutropp, to adopt the foregoing Findings and Order.

ROLL CALL:

Commissioner Evans	Voted Yes
Commissioner Lutropp	Voted Yes
Commissioner Messina	Voted Yes

Commissioners Bowlby, Soumas and Haneline were absent.

Motion to approve carried by a 3 to 0 vote.



\_\_\_\_\_  
CHAIRMAN BRAD JORDAN

**COEUR D'ALENE CITY COUNCIL**  
**FINDINGS AND ORDER**

**A. INTRODUCTION**

This matter having come before the City Council on, June 18, 2013 and there being present a person requesting approval of ITEM A-1-13, a request for zoning in conjunction with annexation from County Industrial to C-17 (Commercial) and R-12 (Residential at 12 units/acre) zoning districts.

LOCATION: +/- 22.23 ACRES KNOWN AS THE WESTERN HALF OF THE OLD ATLAS MILL SITE-LYING BETWEEN SELTICE WAY AND THE SPOKANE RIVER

APPLICANT: VERDIS

**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 single-family residential, multi-family, mobile homes, commercial, and vacant land.
- B2. That the Comprehensive Plan Map designation is Transition.
- B3. That the zoning is County Industrial.
- B4. That the notice of public hearing was published on June 1, 2013, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was not required to be posted, which fulfills the proper legal requirement.
- B6. That 25 notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property on May 31, 2013.
- B7. That public testimony was heard on June 18, 2013.
- B8. That this proposal **(is) (is not)** in conformance with the Comprehensive Plan policies as follows:

- B9. That public facilities and utilities (**are**) (**are not**) available and adequate for the proposed use.  
This is based on

**Criteria to consider for B9:**

1. Can water be provided or extended to serve the property?
2. Can sewer service be provided or extended to serve the property?
3. Does the existing street system provide adequate access to the property?
4. Is police and fire service available to the property?

- B10. That the physical characteristics of the site (**do**) (**do not**) make it suitable for the request at this time because

**Criteria to consider for B10:**

1. Topography.
2. Streams.
3. Wetlands.
4. Rock outcroppings, etc.
5. vegetative cover.

- B11. That the proposal (**would**) (**would not**) adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (**and**) (**or**) existing land uses because

**Criteria to consider for B11:**

1. Traffic congestion.
2. Is the proposed zoning compatible with the surrounding area in terms of density, types of uses allowed or building types allowed?
3. Existing land use pattern i.e. residential, commercial, residential w churches & schools etc.

**C. ORDER: CONCLUSION AND DECISION**

The City Council, pursuant to the aforementioned, finds that the request of VERDIS for zoning in conjunction with annexation, as described in the application should be **(approved) (denied) (denied without prejudice)**.

Suggested provisions for inclusion in an Annexation Agreement are as follows:

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to adopt the foregoing Findings and Order.

## ROLL CALL:

Council Member Gookin	Voted _____
Council Member Edinger	Voted _____
Council Member Goodlander	Voted _____
Council Member McEvers	Voted _____
Council Member Adams	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