

CONFORM
COPY

ORDINANCE NO. 2010-438

DANIEL J. ENGLISH 4P I 2286714000
KOOTENAI CO. RECORDER Page 1 of 4
BBB Date 10/20/2010 Time 12:54:17
REC-REQ OF CITY OF HARRISON
RECORDING FEE: 0.00
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AN ORDINANCE OF THE CITY OF HARRISON, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 1, CHAPTER 8, SECTION 1(C) OF THE CITY OF HARRISON MUNICIPAL CODE ENTITLED "CORPORATE BOUNDARIES" TO MODIFY THE HARRISON CITY LIMITS OVER THE WATERS OF LAKE COEUR D'ALENE, PURSUANT TO THE "GOVERNMENT-TO-GOVERNMENT AGREEMENT BETWEEN THE COEUR D'ALENE TRIBE OF INDIANS AND THE CITY OF HARRISON, IDAHO" APPROVED BY THE CITY OF HARRISON ON AUGUST 17, 2010, IN ORDER TO REMOVE FROM THE CITY LIMITS ALL PORTIONS OF SUBMERGED LANDS AND RELATED WATERS OF THE LAKE LYING WITHIN THE BOUNDARY OF THE COEUR D'ALENE INDIAN RESERVATION WITH THE EXCEPTION OF AN AREA OF 7.35 ACRES (THE "AREA OF TRIBAL CONSENT"), MORE OR LESS, AS SPECIFICALLY DESCRIBED HEREIN BELOW AND AS DEPICTED IN THE ATTACHED MAP WHICH IS INCORPORATED HEREIN BY REFERENCE AS EXHIBIT "A"; AMENDING SECTION 1(C)(2) TO EXCEPT THE AREA OF TRIBAL CONSENT FROM THE APPLICATION OF THE CITY'S RULES, REGULATIONS, ORDINANCES AND OTHER LAWS AND TO PRECLUDE THE CITY FROM AUTHORIZING DEVELOPMENT WITHIN TRIBAL SUBMERGED LANDS AND RELATED WATERS WITHIN THE COEUR D'ALENE INDIAN RESERVATION, INCLUDING THE AREA OF TRIBAL CONSENT; ADDING A NEW SECTION 1(C)(3) TO PROVIDE FOR THE WITHDRAWAL OF THE EXTENSION OF THE CITY BOUNDARY OVER THE AREA OF TRIBAL CONSENT IN DESIGNATED CIRCUMSTANCES; ADDING A NEW SECTION 1(C)(4) TO REQUIRE PRIOR WRITTEN APPROVAL FROM THE COEUR D'ALENE TRIBAL COUNCIL FOR EXTENSION OF THE CITY'S BOUNDARIES OVER ANY TRIBAL SUBMERGED LANDS OR RELATED WATERS WITHIN THE EXISTING BOUNDARIES OF THE COEUR D'ALENE INDIAN RESERVATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR DUTY OF CITY CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HARRISON, IDAHO AS FOLLOWS:

SECTION 1: AMENDMENT OF TITLE 1, CHAPTER 8, SECTION 1(C)

Title 1, Chapter 8, Section 1(C) shall be amended to read as follows:

1-8-1: CORPORATE BOUNDARIES

C. Jurisdiction Over Waters of Lake Coeur d'Alene:

1. The city limits shall extend along its western boundary, where that boundary runs to the shoreline of Lake Coeur d'Alene according to the recorded plat thereof in the Kootenai County recorder's office, over the waters of Lake Coeur d'Alene for a distance of one thousand three

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hundred twenty feet (1,320'), measured from the low water mark of said lake¹, including an area of submerged lands and related waters of Lake Coeur d'Alene consisting of 7.35 acres lying within the boundary of the Coeur d'Alene Indian Reservation, to be known as the "Area of Tribal Consent," and which is specifically described as follows:

The following described area, located within the Coeur d'Alene Indian Reservation, including Government Lot 1 in Section 2, Township 47 North, Range 4 West, B.M., and including area below the high water mark of Coeur d'Alene Lake, more specifically described as follows:

Commencing at the point of the Coeur d'Alene Indian Reservation boundary on the east bank of the mouth of the Coeur d'Alene River, the POINT OF BEGINNING, thence, Southerly, along the boundary of the Reservation, a distance of 800 feet, thence, NORTH 45°00'00" West to a point that lies on the boundary of the Coeur d'Alene Indian Reservation, 800 feet westerly of the point of beginning, thence, Easterly along the Reservation boundary, a distance of 800 feet to a point on the east bank of the mouth of the Coeur d'Alene River, the POINT OF BEGINNING,

Encompassing 7.35 acres, more or less, within the Coeur d'Alene Reservation, in Kootenai County, Idaho,

and excepting therefrom all other submerged lands and related waters lying within the boundary of the Coeur d'Alene Indian Reservation, all as depicted on that certain map dated June 15, 2010 attached hereto as Exhibit "A" and incorporated herein by reference as part of this Ordinance. (1983 Code § 1.12.021)

2. All of the area encompassed within the area described in subsection C1 of this section shall be subject to all of the rules, regulations, ordinances and other laws in effect or hereafter enacted by the city council, excepting therefrom the Area of Tribal Consent. The Area of Tribal Consent and all Tribal submerged lands and related waters of the Lake lying within the boundary of the Coeur Alene Indian Reservation shall remain subject to the Tribe's jurisdictional control and shall not be subject to any of the rules, regulations, ordinances and other laws in effect or hereafter enacted by the City Council. The city shall not take any action to authorize any development, occupation or use of the Tribal submerged lands and related waters within the Reservation, including within the Area of Tribal Consent. (1983 Code § 1.12.022)

3. The city agrees that should its corporate or municipal boundaries outside of the Area of Tribal Consent become contiguous, as defined by Idaho law, to the lands of the Powderhorn Peninsula annexed by Harrison Ordinance #2010-437, or if the application for annexation by Powderhorn Ranch, LLC dated May 11, 2009 is withdrawn by Powderhorn Ranch, LLC, or such application is not finally approved by the city within two (2) years of the effective date of the

¹ IC § 50-221.

“Government-to-Government Agreement between the Coeur d’Alene Tribe of Indians and the City of Harrison, Idaho” approved by the city on August 17, 2010, the city shall act immediately to withdraw the extension of its boundary over the Area of Tribal Consent.

4. The city agrees that it shall not take action in the future to include within its corporate or municipal boundaries any Tribal submerged lands or related waters within the current boundaries of the Coeur d’Alene Indian Reservation without the prior written consent of the Coeur d’Alene Tribal Council.

SECTION 2: SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable, and if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of the Ordinance.

SECTION 3: CONFLICTS

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4: EFFECTIVE DATE

This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the St. Maries Gazette Record, the official newspaper of the City of Harrison as declared herein.

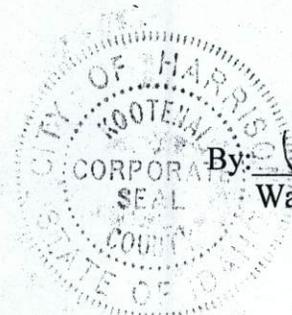
SECTION 5: DUTY OF CITY CLERK

The City Clerk is hereby directed to file immediately after the passage and approval of this Ordinance, a certified copy of this Ordinance with the offices of the Treasurer and Assessor of Kootenai County, Idaho, and with the Idaho State Tax commission, Boise, Idaho, as required by Section 50-225, Idaho Code, and to comply with the provisions of Section 63-215, Idaho Code, with regard to the preparation and filing of a map and legal description of the real property which is the subject of this Ordinance.

APPROVED by the Mayor and City Council of the City of Harrison, under suspension of the rules on this 21st day of September, 2010.

ATTEST:

By: Jann Patterson
Jann Patterson, Clerk

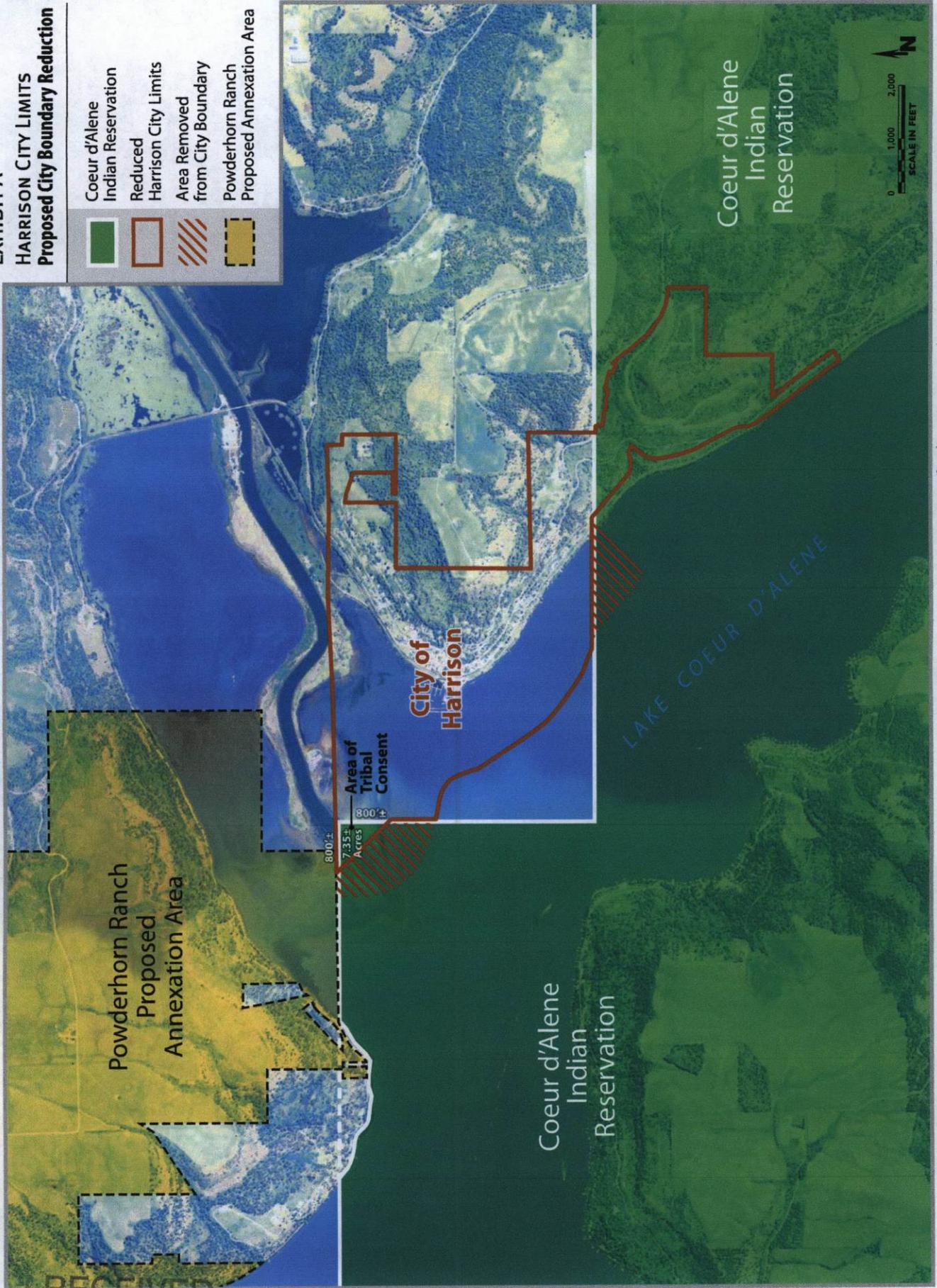


By: Wanda Irish
Wanda Irish, Mayor

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TECHNICAL SUPPORT

EXHIBIT A

**HARRISON CITY LIMITS
Proposed City Boundary Reduction**



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WANDA IRISH
MAYOR

JANN PATTERSON
CLERK/TREASURER



Incorporated 1899

COUNCIL MEMBERS

RUSSELL RIBERICH, PRESIDENT
WILL BUTLER RON ELLIOTT
KEVIN KINCHELOE RICH LUND
MARK WAGNER

MEMORANDUM

TO: IDAHO STATE TAX COMMISSION
FROM: WANDA IRISH, MAYOR
DATE: October 19, 2010
RE: HARRISON CITY ORDINANCE NOS. 437 AND 438

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Attached are two recently adopted Ordinances that change the boundaries of the City of Harrison. Also attached is an exhibit titled "Powderhorn Ranch Annexation Contiguity Exhibit" from the City's case file that demonstrates how the annexation contained in Ordinance No. 437 is contiguous to the City's current boundary and as further explained below.

In October of 1983, the City of Harrison adopted Ordinance No. 284, pursuant to Idaho Code 50-221, extending the City's western corporate boundary into Lake Coeur d'Alene a distance of 1,320 feet from the low water mark. A map of that boundary extension was not prepared at the time of adoption of that ordinance.

As part of the process of reviewing the annexation application that was subsequently approved under Ordinance No. 437, locally referred to as the Powderhorn Annexation, the physical location for the City's boundary as it extended into the lake the per Ordinance No. 284 was determined. Calculations by Powderhorn from the historical record determined the low water mark for the lake to be 2121.4' (WWP/Avista datum). This was close to the generally accepted Lake Coeur d'Alene low water mark of 2121' (WWP/Avista datum). To be conservative, the 2122' contour was surveyed as depicted on the attached "Powderhorn Ranch Annexation Contiguity Exhibit" prepared by JUB Engineers, Inc. and signed by Jeremy Russell, P.L.S, on January 7, 2010. The location of the City boundary from Ordinance No. 284 was then determined and is also depicted on the aforementioned Contiguity Exhibit.

With the location of the City boundary determined by survey (as amended by Ordinance No. 284), it was confirmed that contiguity existed between the City of Harrison and the proposed Powderhorn Annexation area.

Regarding City of Harrison Ordinance No. 438, this Ordinance relocates the City boundary extension that was created by Ordinance No. 284. This was done at the request of the Coeur d'Alene Tribe to reduce the amount of incorporated area within the Tribe's Reservation while maintaining contiguity between the City of Harrison and the Powderhorn Annexation area.

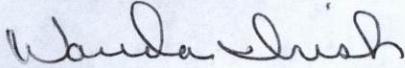
Idaho State Tax Commission

October 21, 2010 - Page 2

Should you have any questions regarding the above, please feel free to contact me at the Harrison City Hall, (208) 689-3212.

Sincerely,

CITY OF HARRISON

A handwritten signature in cursive script that reads "Wanda Irish".

Wanda Irish,
Mayor

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