

ORDINANCE NO. 2009 - 31

AN ORDINANCE AMENDING THE TOWN'S ZONE DISTRICT MAP BY APPROVING THE HILLSIDE AT CASTLE ROCK PRELIMINARY PLANNED DEVELOPMENT SITE PLAN AND PLANNED DEVELOPMENT ZONING REGULATIONS

WHEREAS, Wolfensberger Property Group, LLC (Applicant) has requested PD Planned Development zoning of the parcel described in *Exhibit 1* (Property); and

WHEREAS, Applicant has requested approval of the Hillside at Castle Rock PD Zoning Regulations as described in the attached *Exhibit 2* as the same affect the Property (Zoning Regulations); and

WHEREAS, Applicant has requested approval of "Hillside at Castle Rock Preliminary PD Site Plan" (Site Plan);

WHEREAS, the Site Plan is consistent with the Town's Vision 2020, the Comprehensive Master Plan, and the Town of Castle Rock/Douglas County Land Use Intergovernmental Agreement; and

WHEREAS, public hearings on the Zoning Regulations and Site Plan have been held before the Planning Commission and Town Council in accordance with the applicable provisions of the Castle Rock Municipal Code;

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Zoning Approval. The Property is rezoned to PD (Planned Development District) and the Town's Zoning District Map is amended accordingly. The Hillside at Castle Rock PD Zoning Regulations in the form attached as *Exhibit 2* and the Hillside at Castle Rock Preliminary PD Site Plan are hereby approved, subject to the following conditions:

1. That all staff comments be addressed prior to recordation.
2. That the applicant executes an agreement to purchase water rights prior to recordation.

Section 2. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

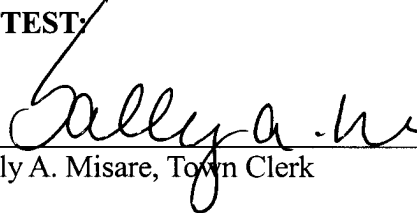
Section 3. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

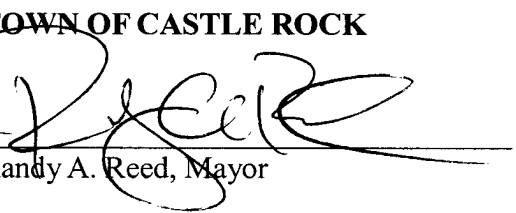
October
APPROVED ON FIRST READING this 20th day of 2009 by a vote of 4 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED this 26th day of January, 2010, by the Town Council of the Town of Castle Rock by a vote of 5 for and 0 against.

ATTEST:

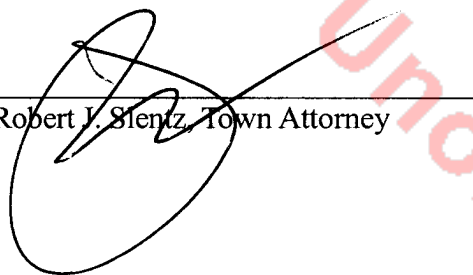
TOWN OF CASTLE ROCK



Sally A. Misare, Town Clerk


Randy A. Reed, Mayor

Approved as to form:

Approved as to content:


Robert J. Slentz, Town Attorney


Bill Detweiler, Director of Development Services

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EXHIBIT 1

LEGAL DESCRIPTION – BASED ON SURVEY

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 3 AND THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 3, WHENCE THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4 BEARS N. 89°26'32" W., A DISTANCE OF 1286.69 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS DESCRIPTION; THENCE N. 89°16'41" E., A DISTANCE OF 533.53 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE N. 49°02'26" W., A DISTANCE OF 100.00 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 24°21'57" AND A RADIUS OF 1500.00 FEET, AN ARC DISTANCE OF 637.90 FEET (CHORD BEARS N. 61°13'25" W., A DISTANCE OF 633.10 FEET) TO THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED BY DEED RECORDED IN BOOK 591 AT PAGE 379 OF THE DOUGLAS COUNTY RECORDS;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL OF LAND, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 43°07'18" AND A RADIUS OF 635.00 FEET, AN ARC DISTANCE OF 477.91 FEET (CHORD BEARS N. 39°12'48" W., A DISTANCE OF 466.71 FEET) TO A POINT;

THENCE N. 53°24'19" E., A DISTANCE OF 2129.08 FEET TO THE EAST LINE OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 3;

THENCE S. 00°11'15" W., A DISTANCE OF 668.18 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 3;

THENCE N. 89°33'04" E., ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, A DISTANCE OF 257.97 FEET TO A POINT;

THENCE S. 00°09'26" W., A DISTANCE OF 13.38 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND DESCRIBED BY DEED RECORDED IN BOOK 1394 AT PAGE 1605 OF THE DOUGLAS COUNTY RECORDS;

THENCE ALONG THE NORTHERLY, WESTERLY AND SOUTHERLY LINES OF SAID PARCEL OF LAND THE FOLLOWING FOUR (4) COURSES:

THENCE N. 89°31'34" W., A DISTANCE OF 38.13 FEET TO A POINT;

THENCE N. 89°46'29" W., A DISTANCE OF 12.15 FEET TO A POINT;

THENCE S. 00°09'26" W., A DISTANCE OF 433.53 FEET TO POINT;

THENCE N. 89°33'04" E., PARALLEL WITH SAID NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, A DISTANCE OF 50.28 FEET TO A POINT;

THENCE CONTINUING PARALLEL WITH SAID NORTH LINE, N. 89°33'04" E., A DISTANCE OF 250.24 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD THE FOLLOWING FOUR (4) COURSE:

THENCE S. 51°32'57" W., A DISTANCE OF 649.93 FEET TO A POINT;

THENCE S. 51°35'58" W., A DISTANCE OF 173.87 FEET TO A POINT;

THENCE S. 50°14'24" W., A DISTANCE OF 80.36 FEET TO A POINT;

THENCE S. 60°38'02" W., A DISTANCE OF 667.40 FEET TO THE TRUE POINT OF BEGINNING;

SAID TRACT OF LAND CONTAINS 2,035,214 SQUARE FEET OR 46.72 ACRES, MORE OR LESS.

EXHIBIT 2

HILLSIDE AT CASTLE ROCK
CASTLE ROCK, COLORADO
ZONING REGULATIONS

Page two SECTION ONE: GENERAL PROVISIONS

Page three SECTION TWO: DEFINITIONS

Page five SECTION THREE: CONTROL PROVISIONS

Page six SECTION FOUR: USE AREAS

Page eight SECTION FIVE: DEVELOPMENTAL STANDARDS

Page nine SECTION SIX: TEMPORARY USES

Page ten SECTION SEVEN: USES PERMITTED BY SPECIAL
REVIEW

Page eleven SECTION EIGHT: FINAL PLANNED
DEVELOPMENT SITE PLANS

Page twelve SECTION NINE: TRANSITIONAL USE

Page thirteen SECTION TEN: SOIL CONDITIONS

Page fifteen SECTION ELEVEN: ROCKFALL HAZARD

SECTION I
GENERAL PROVISIONS

- 1.1 **Adoption/Authorization.** The Town Council has adopted the Hillside at Castle Rock PD Preliminary PD Site Plan and Zoning Regulations pursuant to Section 17.60 of Title 17 (Zoning) of the Castle Rock Municipal Code after appropriate public notice and hearing.
- 1.2 **Applicability.** The Hillside at Castle Rock PD Preliminary PD Site Plan and Zoning Regulations shall run with and bind all landowners of record, their successors, heirs, or assigns of the land as approved by the Castle Rock Town Council.
- 1.3 **Maximum Level of Development.** The total number of dwelling units approved for development within the established Use Areas is the maximum allowed for platting and development. The actual number of dwellings approved will be determined at the Final Plat and Final PD Site Plan stage of review based upon environmental constraints, utility and street capacity, compatibility with surrounding land uses, and other relevant factors. The actual number of dwellings permitted may be less than indicated.
- 1.4 **Relationship to Town Regulations.** The provision of this Preliminary PD Site Plan and Zoning Regulations shall govern the development of the Hillside at Castle Rock PD, provided, however, that the relevant provisions of the Castle Rock Municipal Code, as the same may be amended from time to time, are also applicable to the Preliminary PD Site Plan and Zoning Regulations, and, in the event of a conflict, the provisions of the Municipal Code shall prevail. Provided however, such new or revised provisions of the Castle Rock Municipal Code or other Town regulations enacted after the effective date of these PD zoning regulations ("new Town regulations") shall apply to those portions of Hillside At Castle Rock that are subject to an approved Final PD Site Plan at the time the new Town regulations become effective only to the extent that the new Town regulations do not conflict with express entitlements granted in the Final PD Site Plan.
- 1.5 **Severability of provisions.** In the event that any provision hereof shall be determined to be illegal or void by the final order of any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
- 1.6 **Development Agreement.** In addition to these regulations, certain provisions of the development of this PD property are controlled by an agreement between the Town of Castle Rock and the PD property owners.

This agreement, entitled Hillside at Castle Rock Development Agreement, was adopted by the Town on the (date) by Ordinance No. (number).

SECTION II
DEFINITIONS

Definitions. In addition to the standard definitions found in the Town of Castle Rock Zoning Ordinance, (Title 17), the following definitions of terms shall apply to this Planned Development:

Accessory Dwelling Unit. A dwelling associated with the main dwelling that is integrated in the overall design of the structure but may have a separate entry and kitchen facility. The unit must be attached to the main home or the detached garage. Separate addressing of utility taps is not permitted. One additional parking space shall be provided on the lot for the accessory dwelling unit. The design of the structure shall accommodate a fire wall between the main home and accessory dwelling unit if a separate entry is proposed.

Gross Acreage. Acreage that includes the area up to the center-line of adjacent roads, alleys, and other right-of-ways.

Gross Density. Includes all acreage within a plat except PLD, PUA, and OSD.

Multifamily Residence. A building designed primarily for the occupancy of multiple single-family residences. The product for the community will consist of homes of no more than four-plex buildings, but may have a mixture of paired, and single-family attached with no more than 4 units attached in any one building. Paired and single-family attached dwellings have common walls between the residences.

OSD (Open Space Dedication). Land proposed to meet the PD open space requirements and proposed to be dedicated to the Town.

Paired Single-Family Residence. A building designed primarily for the occupancy of two families in which the two units are attached with a common wall, but in a non-traditional, non-linear lot configuration. These paired homes will address public streets with attached garages and parking. The units may be constructed with, but do not require, shared elements including, but not limited to side yards, rear yards, drives, access, egress, outdoor living areas, and utilities and common walls

Private Open Space. Usable open space that remains in private ownership and is privately controlled, constructed, and maintained. The accessibility and availability of such Private Open Space to occupants of dwelling units for whose use it is intended is to be perpetually protected by appropriate covenants, and some mechanism is to be established to control, construct and maintain the property.

PUA (Private Use Area). Land proposed to meet the PD open space requirements and proposed to be held in private ownership. Permitted Uses: Parking, Private Parks, including active and passive recreation activities.

Single-Family Residence. A building designed for the occupancy of one family, but in a non traditional, non linear lot configuration such as high density cluster homes. For this definition; a cluster home or collective home is one of several homes oriented around a private drive, which private drive has ingress and egress to a public street. The lots shall generally not front public streets with garages addressing the streets, but could in 45% of the lots. The units may be constructed with, but do not require, shared elements including, but not limited to side yards, rear yards, drives, outdoor living areas, and utilities. Detached single-family residences may include an accessory dwelling unit. Single-family residence owners shall own the land beneath such units.

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SECTION III
CONTROL PROVISIONS

- 3.1 **Use Area Boundaries.** There shall be some limited flexibility in determining the exact location of the Use Area Boundaries due to the scale of the drawings and the somewhat diagrammatic depiction of Use Areas. (Rounded corners, and separation from other areas, etc.) However, actual changes or adjustments to boundaries may only be made through the PD Amendment procedure as provided in the Town Code.

- 3.2 **Road Alignments.** The Preliminary PD Site Plan is intended to depict common locations of roadways for the density proposed. Recognizing that final road alignments are subject to engineering studies, minor road realignments of arterial and collector streets are expected, and can be accomplished by the developer through the platting process without any amendment to these regulations or to the Plan itself. Major road realignments, as determined by the Town Planning Director, shall follow the PD Amendment procedure as provided in the Town Code.

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SECTION IV
USE AREAS

- 4.1 **Use Area.** The property shall be divided into general use areas as indicated on the Preliminary PD Site Plan, approved contemporaneously herewith and incorporated by reference into these Amended Zoning Regulations. The preliminary PD Site plan designates three use areas in a mixed-use area, including Mixed residential (MR), and open space (OS).

The aggregate number of acres, the maximum number of dwelling units and the allowable Use Area Categories for each Use Area shall be as follows:

NEIGHBORHOOD USE AREA	USE AREA CATEGORIES	GROSS ACREAGE	PERCENT OF TOTAL ACREAGE	MAX. NUMBER OF DWELLING UNITS	MAX NON-RESIDENTIAL FLOOR AREA / F.A.R.
MIXED RESIDENTIAL	MR	27.7	59.3	120	N/A
OPEN SPACE	OSD	19.0	40.7	N/A	N/A

4.2 **Mixed Residential Area: MR**

- A. Permitted Uses:
1. Single-family Residence;
 2. Multifamily residence;
 3. Recreation facilities, parks, gardens and their structures;
 4. Paired unit Single-family Residence.
 5. Limited in-home day care subject to licensing requirements of the State.
- B. Accessory Uses:
1. Fences and walls
 2. Underground utility distribution lines.
 3. Small wind, solar collectors and geothermal systems.
 4. Small Satellite Dish (1) meter or smaller
 5. Underground utility and communications distribution lines and above ground utility and transmission lines.
 6. Parking Areas.
 7. Open spaces and lakes, to include storm water drainage detention areas.
 8. Dwelling units to be used as models and /or sales and information offices; provided the unit so utilized is a permitted use in the use area

where it is located. Further provided any such use shall be discontinued when all similar dwelling units within the P.U.D. have been rented, leased, or sold.

- 9. Bicycle and pedestrian trails.
- 10. Home occupations.
- 11. Parks and picnic areas
- 12. Tennis courts
- 13. Swimming Pools, hot tubs and similar private uses
- 14. Patio and gazebo areas

4.3 Open Space Use Areas – OSD, PLD

A. OSD (Open Space Dedication)

- 1. Definition: Land proposed to meet the PD open space requirements and proposed to be dedicated to the Town.
- 2. Permitted Uses:
Open Space and passive recreation activities, including picnic shelters, restroom facilities, parking and trails;
Roadways, bike, pedestrian and equestrian trails, and community gardens.

B. PLD (Public Land Dedication)

- 1. Definition: Land proposed to meet the land dedication requirements of the subdivision code of the Town.
- 2. Permitted Uses:
Parks, schools and other public uses, active and passive recreation activities, preservation of land for public purposes, and including such structures and other improvements not inconsistent with the Land Dedication and Planned Development District ordinances;
Roadways, bike, pedestrian and equestrian trails.

SECTION V
DEVELOPMENT STANDARDS

5.1 **Overall Project Standards.** The standard zoning requirements of the Town of Castle Rock Zoning Ordinance including off-street parking, landscaping, site development, accessory and temporary uses, and use by special review and variance processes shall apply to this PD, except as modified by the following subsections:

5.2 **General Design Guidelines.**

	MR	OS/PLD
Maximum bldg Height (cluster homes and paired homes)	35'	35'
Maximum bldg height (homes adjacent to butte)	33'	

Setbacks will be finalized during the Final PD Site Plan.

Parking: Minimum off street parking shall be as required pursuant to applicable ordinance of the Town of Castle Rock.

5.3 **Fencing**

When a Building Envelope is shown on the Final PD Site Plan, privacy fencing will only be allowed within the Building Envelope. However, one, two, or three rails, open-rail fencing will be allowed at property boundaries. Privacy fences shall meet all setback requirements.

5.4 **Exterior Lighting**

All exterior lighting shall comply with the Town of Castle Rock outdoor illumination code.

5.5 **Utilities**

All public utility distribution lines must be placed underground.

5.6 **Decks**

Decks shall be permitted per Town of Castle Rock Zoning Section 17.66.060.

SECTION VI
TEMPORARY USES

6.1 **Temporary Uses:**

- A. Residential Units may be used as models and/or sales and information offices in those use areas where they are a Permitted Use.
- B. Construction offices and material storage shall be permitted in all use areas during, and for a period of 60 days after cessation of actual construction in those areas being served by such construction office or material storage.

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SECTION VII
USES PERMITTED BY SPECIAL REVIEW

7.1 Uses Permitted by Special Review

1. Churches and other religious institutions
2. Day care centers
3. Public and quasi-public facilities
4. Public utilities and related facilities
5. Mortuary
6. Schools
7. Large in-home day care subject to the licensing requirements of the State;
8. Nursing homes subject to the licensing requirements of the State;
9. Group homes subject to the licensing requirements of the State and not located within one thousand five hundred (1,500) feet of another group home use;
10. Personal Wireless Service Facilities (including, telecommunications, cellular, radio and television antenna towers), subject to Chapter 17.92 of the Castle Rock Municipal Code

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SECTION VIII
FINAL PLANNED DEVELOPMENT SITE PLANS

- 8.1 Following approval of the Preliminary PD Site Plan, the property owners shall submit a Final PD Site Plan for all or any portion of the general use areas as are then ready for development. No building permit will be issued until a Final PD Site Plan and Final Subdivision Plat have been approved for the property by the Town Council and duly recorded.
- 8.2 In those cases where the Subdivision Regulations of the Town of Castle Rock require approval of a final plat by the Town Council prior to sale or transfer of lands within the Planned Unit Development, no such final plat shall be approved by the Town Council for any area for which a final planned unit development plan has not been approved for the lands so sold or transferred, unless such plat contains a note, on the face thereof, which shall state as follows:

"Pursuant to Town of Castle Rock Municipal Code, no building permit will be issued for the erection of any improvement in any area described hereon for which a Final PD Site Plan has not been approved by the Town Council of the Town of Castle Rock."

SECTION IX
TRANSITIONAL USE

- 9.1 After approval of the Preliminary Site Plan incorporated herein by reference, any portion of the property described above which has not been subject to a Recorded Final Plat may be used for agricultural purposes. Agricultural uses, for purposes of this section, shall mean farming, ranching, gardening, buildings and out buildings pertaining thereto. It shall not be deemed to include commercial feed yards, commercial poultry or pig farms, kennels, beekeeping/apiaries, or fur farms.
- 9.2.1 Any activity permitted by this section shall be considered to be a valid preexisting non-conforming use within the area described above until a Final PD Site Plan for such area or areas has been approved; provided, however, that the Town Council reserves the right to prohibit such agricultural uses in areas for which no Final PD Site Plan has been submitted if the Council determines that due to the proximity of such uses to developed areas, a danger exists to the health, safety, or welfare of the residents of such developed area(s).

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SECTION X
SOIL CONDITIONS

- 10.1 According to the Colorado Geological Survey publication 43, swelling soils and bedrock contain clay minerals that attract and absorb water. As a result, they swell in volume when they get wet and shrink when they dry. Many geologists, engineers, and builders use the term "swelling soil" to include both soil and bedrock. This project may contain some swelling soils.
- 10.2 "Bentonite" is a term that is often used synonymously with "swelling soil." Some bentonite layers are comprised of pure volcanic ash that has been weathered to clay. This type of bentonite may have extremely high swell characteristics.
- 10.3 There are many factors that control how much a soil can swell, including the type and concentration of minerals, soil density, the amount of moisture change that can occur, and the restraining pressure of the surrounding soil. Swelling soils and bedrock may be found throughout Colorado, with the general exception of the highest mountain areas
- 10.4 The swell potential of soils beneath any particular property depends on the local geology. Exploratory drilling or trenching, accompanied by sampling and laboratory testing, are necessary to evaluate the swell potential of subsurface layers at different depths
- 10.5 Layers of swelling claystone bedrock that dip (tilt) into the ground at steep angles near mountain uplifts constitute a distinct geological hazard called "heaving bedrock". Douglas county has adopted land development regulations to address this special geologic hazard and the regulations will be adhered to on this project.
- 10.6 Prior to the issuance of a building permit each building site will have a site specific boring completed by a registered and approved geotechnical engineer and each foundation will be designed and built according to the engineers recommendations.
- 10.7 These regulations will determine the bearing structure for the foundation including differentiating between caissons and spread footings. There will also be recommendations for perimeter drains that may look like the following, represented as example only:

If required by the engineer a perimeter drain will be installed around the exterior of all basements and other habitable areas below exterior grade. Recommendations pertaining to construction of the perimeter drain will be presented in the lot specific Geotechnical Investigation Report. Additional recommendations and construction considerations shall be provided in the lot specific Geotechnical Investigation Report, and must be incorporated in the

design and construction of the proposed structures. An approved and registered geotechnical engineering firm must review the construction plans and specifications for this project before they are finalized. Such a review allows all review agencies to verify that the recommendations and concerns of the geotechnical have been adequately incorporated in the design.

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SECTION XI
ROCKFALL HAZARD

This site is located at the base of the southern slope of the Santa Fe Quarry. There are rock piles on the slope that indicates a potential rockfall hazard. All lots will be located outside of all potential rockfall hazard areas.

It is anticipated that a ditch will be designed as a rockfall mitigation. A qualified geotechnical professional experienced in the design of rockfall mitigation and the sizing of catchment structures will be consulted with to determine the ditch dimensions. The rockfall hazard will be mapped to determine the proper placement of the drainage ditch. The ditch would be designed to provide the needed buffer between the rockfall deposition areas and all lots within the proposed development. This design will be provided as a part of the construction plan and final platting phase of the development.

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