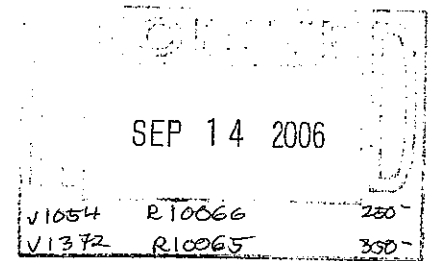


To: Sue Shannon, Lake County Planning Director

From: Dave DeGrandpre, Land Solutions, LLC *Dave*

Date: September 13, 2006

Re: Request to create the Historic Kootenai Lodge Zoning District and amend the Lake County Density Map and Regulations



I write this letter on behalf of Kootenai Lodge Estates, LLC in order to initiate the zoning district creation and adoption process for the Historic Kootenai Lodge Zoning District. The attached zoning regulations and supplements are intended to comply with condition #31 of the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge Condominium Subdivision document issued by the Lake County Commissioners.

Through the creation of a new zoning district, the Lake County Density Map will be amended and the following text is made in accordance with the requirements of Section X. of the Density Map Regulations. Also included is an analysis of the zoning regulations in light of the criteria for zoning regulations found in Montana Code Annotated, 76-2-203.

I. Density Map Amendment Requirements

A. Description of geographic boundaries

The legal description of the Historic Kootenai Lodge Zoning District is as follows: Tract B (Remainder) of the Amended Plat of Lot 128, Swan Sites No. 1 Subdivision and lands in Lot 8, Section 11, Lots 1 and 4, Section 14, Township 26 North, Range 19 West, P.M.M., Lake County Montana, according to the map or plat thereof on file in the office of the Clerk and Recorder of Lake County, Montana.

B. Description of how the amendment furthers the goals of and complies with the *Lake County Growth Policy*

Creation of this zoning district and the adoption of the zoning regulations will help to further a number of goals that are found in the *Lake County Growth Policy*. Below are some of the specific goals and descriptions of how the creation of this zoning district and the adoption of the submitted zoning regulations will further the intent of those goals and therefore comply with the *Lake County Growth Policy*.

Chapter 3, Goal 8. Protect the natural resources and the character of the different parts of Lake County.

Chapter 4, Goal 1. Protect surface and groundwater resources before, during and after development.

The zoning regulations include provisions to ensure buildings are located at least 80 feet from waterways and newly planted and existing vegetative buffers are not substantially disturbed. These measures are meant to give Lake County the legal authority to ensure that buildings are not constructed on the lakeshore and streambanks where erosion can occur in order to reduce the potential for sedimentation that can have a negative impact on water quality and aquatic life. The setbacks and vegetative buffer requirements of the zoning regulations are more stringent than those found within the Swan Sites Zoning District and Regulations that surround the district.

Chapter 4, Goal 9.

Protect the area's scenic resources, which are an integral part of our high quality of life and an economic asset.

The zoning regulations contain a provision requiring that all nighttime outdoor lighting be downward pointed and side shielded to prevent glare from leaving the property. The purpose of this regulation is to protect views of the night sky, which can be considered a scenic resource. The zoning regulations also require that buildings be set back from property lines and that vegetation within those setbacks be largely maintained. This provision will help to buffer development on the property from the views of neighboring landowners in order to protect the area's scenic resources.

Chapter 4, Goal 5

Protect important wildlife habitat and migration corridors.

During the preliminary plat approval process, letters of review by representatives of the United States Fish and Wildlife Service, Montana Department and Fish, Wildlife and Parks and Flathead Lake Biological Station indicated that the most important wildlife habitat within the district includes the lakeside/riverside area and the Johnson Creek stream corridor. The zoning regulations require that these areas be protected by 80-foot building setbacks for new structures as well as the maintenance of historic and newly planted vegetative buffers. These provisions are intended to allow continued use of the high quality wildlife corridors and waters within the zoning district by fish and wildlife.

Chapter 4, Goal 7.

Protect and encourage the prosperity of the area's cultural resources.

During the subdivision review process, much discussion focused on the cultural significance of the Kootenai Lodge Historic District. The owners maintain that restoring and rehabilitating the existing structures can only be accomplished in a financially viable manner through the creation and sale of new homes. The zoning regulations require that after all of the proposed structures are built, any future structures would have to be approved by the Kootenai Lodge Unit Owners Association's Design Review Committee prior to a Zoning Conformance Permit being issued by Lake County. The Design Review Committee would evaluate proposed construction in light of specific design standards (attached) that are intended to maintain the character of the Kootenai Lodge Historic District. By adopting the requirement for demonstration of successful design review before issuing a zoning permit, Lake County will be protecting and encouraging the perpetuation of the area's cultural resources.

C. Description of current easements and infrastructure in place within and leading to the closest city or town.

Currently few easements and limited infrastructure exist within the zoning district. A 60-foot publicly dedicated easement for access and utilities is located adjacent to the property on Sunburst Drive to the east. Sunburst Drive connects to South Ferndale Drive, which also is located within a 60-foot easement. South Ferndale Drive then runs east to connect to Montana Highway 83. Within 10 miles of the property and zoning district are the unincorporated towns of Bigfork, which is accessed from Highway 529, and Swan Lake, which is located along Highway 83. An historic easement for power generation also exists on the northern portion of the property extending from Sunburst Drive to Johnson Creek.

Current infrastructure on the property includes a rough road network, electrical, water and sewer systems that serve the existing buildings. The closest fire station is located approximately 4 miles from the property. The closest ambulance is currently located in Bigfork and the Lake County Sheriff, whose office provides law enforcement services, is located in Polson. School children in the area attend the Swan River School and Bigfork High School.

D. Description of steps to be taken to improve infrastructure so the area under consideration may be provided services in a cost effective and equitable manner.

Under the terms of the application and subsequent approval for the Historic Kootenai Lodge Subdivision, infrastructure on the property and within the zoning district will include properly designed and constructed roadways, utilities and water and sewer systems. All roads and the one bridge within the zoning district will be

built and maintained without the use of public funds. A public sewer system will be built by the owners of the Kootenai Lodge property and then transferred to the Kootenai Lodge/Lake County Water and Sewer District so that the system installation and operation and maintenance will not financially impact other property owners. The sewer system will serve the zoning district residents and include additional capacity to allow off-site property owners to connect if they wish, with priorities for connection established by Lake County. Water will be provided to residents of the zoning district through a public water system that will be built, owned and operated by the public water and sewer district.

As a condition of approval, the landowners are required to widen and pave South Ferndale Drive and Sunburst Drive from Highway 83 to the southern boundary of the property and zoning district. These roadway improvements will have no financial impact on other taxpayers.

The landowners have also agreed to donate a parcel of land to Lake County that is located within 1.5 miles of the zoning district at the intersection of Broken Leg Road and Highway 83. The parcel is intended for use as an air ambulance helispot, a satellite fire station and a satellite office for the Lake County Sheriff's Search and Rescue Division. The Bigfork Fire and Ambulance Service and the Lake County Sheriff have approved the location of this parcel. It is anticipated that when these emergency service agencies choose to make use of the parcel, emergency response times in the area will be significantly decreased. In addition to the donated parcel, the landowners have agreed to install on-site water facilities for fire protection in accordance with the requests of the Ferndale Volunteer Fire District.

School children residing within the zoning district are not expected to have a negative impact on the public schools, as stated by the Swan River and Bigfork School Superintendents in February of 2005 and documented in the preliminary plat application for the Historic Kootenai Lodge Subdivision. With approximately 70% of a homeowner's taxes used to support the public school system, the expected high taxable value of the properties and the expected limited number of school children, the tax revenue generated by the homes and property is likely to far outpace the demands generated within this zoning district on public school resources.

II. Criteria and Guidelines for Zoning Regulations

According to Montana Code Annotated 76-2-203, in addition to complying with the local growth policy (described above), zoning regulations must be designed to:

- A. Lessen congestion in the streets,
- B. Secure safety from fire, panic and other dangers,
- C. Promote public health and general welfare,
- D. Provide adequate light and air,
- E. Prevent overcrowding of land,

- F. Avoid undue concentration of population,
- G. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- H. Provide reasonable consideration to the character of the district and its peculiar suitability for particular land uses,
- I. Conserve the value of buildings,
- J. Encouraging the most appropriate use of land, and
- K. As nearly as possible, be compatible with the zoning ordinances of the municipality within the jurisdictional area.

Below is an evaluation of the Historic Kootenai Lodge Zoning District and Regulations in light of the statutory criteria cited above.

A. Lessen congestion in the streets

The formation and adoption of the Historic Kootenai Lodge Zoning District and Regulations will lessen congestion in the streets by disallowing any commercial enterprises, prohibiting funneling of non-residents to Swan Lake and the Swan River, prohibiting fractional and interval ownership of the homes, prohibiting the short term rental of homes and by prohibiting additional homes to be built. All of these measures will result in limiting the amount of traffic leading to and within the zoning district.

B/C. Secure safety from fire and other dangers; promote health and general welfare

The zoning regulations require that all structures be located outside of the 100-year floodplain for Johnson Creek and at least 80 feet from any water body, in part to minimize danger to lives and property from flooding. The zoning regulations also require that no more than 24 boat slips can be developed on the property, in part to limit dangers associated with excessive aquatic traffic. Finally, the zoning regulations require that all homes and facilities be connected to public water and sewer systems to ensure that well designed and safe water and sewer facilities are available to the future residents. Portions of the overall development project that are related to fire, ambulance and law enforcement protection are discussed in Section I.D. above.

D/E/F. Provide adequate light and air; prevent overcrowding and avoid undue concentration of the population

The Historic Kootenai Lodge Zoning Regulations prohibit the building of additional residences over the 42 that are planned to be built within the 40.9-acre zoning district. The homes and common facilities will make up a small percentage of the overall space and because the vast majority of the property will be kept in landscaped common area, adequate light and air will be provided.

While the terms 'overcrowding' and 'undue concentration of the population' mean different things to different people, approximately one dwelling per acre, particularly along a lake and river and in a somewhat forested environment, can hardly be considered over crowded. Additionally, the number of users of the property and district will be limited by the zoning regulations which disallow the funneling of non-residents to the water, the short term rental of homes and the fractional and interval ownership of homes.

G. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

Appurtenant to the zoning district is a development plan that was granted preliminary approval by the Lake County Commissioners that includes and/or relates to the following infrastructure and other public requirements:

- Internal roadways to be built to Lake County's specifications,
- Off-site roadways to be widened and resurfaced,
- Public water and sewer systems,
- An expected positive financial impact on area schools,
- Access to water bodies, a swimming pool, and acres of green space,
- Stormwater collection, filtration and retention systems,
- Land for emergency service providers and water supplies for fire protection,
- A central mail collection facility,
- Electrical and communication infrastructure, and
- Garbage collection provided by a private solid waste hauler.

While the above items are not specifically called out in the zoning regulations, they are integral parts of the overall development plan and therefore further one of the purposes of zoning cited in 76-2-203, MCA.

H/I/J. Provide reasonable consideration to the character of the district and its peculiar suitability for particular land uses, conserve the value of buildings and encourage the most appropriate use of the land

The character of the district is based on the existing architecture of the structures, the spatial distribution of the structures, the stately trees and open spaces and the presence of Swan Lake, the Swan River and Johnson Creek. Based on its waterfront location in the beautiful Swan Valley, which has vast recreational resources, perpetuating the property's historic use as a recreational retreat seems to be the most appropriate use of the land.

The 42 homes permitted within the zoning district will be rehabilitated and/or built with guidance from design standards that were specifically tailored to complement the existing architecture and spatial distribution of the historic structures. The zoning regulations require that the architecture of any future (non-residential)

buildings be approved by a Design Review Board, which will use specific design criteria in its evaluation, before a Zoning Conformance Permit will be issued by Lake County. By limiting the number of homes and requiring that any future buildings undergo strict architectural review, the zoning regulations provide strong consideration to the character of the district and conserve the value of the current and future structures.

The zoning regulations limit the number of boat slips due to concern with excessive traffic in a fairly shallow aquatic environment. The regulations also limit the amount of use of the homes and property by prohibiting fractional and interval ownership, short term home rental and funnelling. Additionally, the zoning regulations prohibit the use of the property and its facilities for commercial purposes. All of the above provisions are made in light of the suitability of the area for specific uses, as well as to continue the historic and appropriate use of the property as a recreational retreat.

K. As nearly as possible, be compatible with the zoning ordinances of the municipality within the jurisdictional area

The Historic Kootenai Lodge Zoning District is not located within or near a municipality of Lake County and therefore, this criterion does not appear to apply.

ARTICLE VI
ARCHITECTURAL CHARACTER

Section 6.1 **Design Standards.** All development within the Historic Kootenai Lodge Condominium shall be carried out in compliance with the Secretary of the Interior's Standards for Rehabilitation in 36 CFR 67, as well as the following standards:

1. The scale and form of all new buildings shall be based on the scale and form of the existing structures in the Kootenai Lodge Historic District.
2. The character of all new buildings shall reflect the rustic style and use of logs, rough sawn lumber and natural rock of the "arts and crafts" style of the early 20th Century.
3. The architectural vocabulary of all new buildings shall be the architectural vocabulary of the existing structures in the Kootenai Lodge Historic District and shall reflect the diversity, variety and materials used in the existing structures.
4. New buildings shall reflect, but not mimic the character of existing buildings in the Kootenai Lodge Historic District.
5. Design features of new buildings shall reflect historic design features found in existing buildings in the Kootenai Lodge Historic District .
6. Landscape design should maintain the traditional character of open grass in the style of a "campground" under over story trees.
7. All new buildings should be located so that the historic vistas and visual character of the property from Swan Lake are maintained.
8. In the event that expansion or additions to existing buildings, such expansions shall be restricted to the side or rear of existing buildings and shall be subordinate in size and character to the existing building.
9. Enclosed garages shall be restricted to single car garages and shall be located at the rear or side of existing buildings. Enclosed garages for new structures shall be located at the rear of the building and should, to the extent possible, reflect a traditional facade treatment of an existing building.

Section 6.2. **Design Review Committee.** After the expiration of the Period of Declarant Control, all improvements with the Historic Kootenai Lodge Condominium, undertaken by any Owner, the Historic Kootenai Lodge Condominium Unit Owners Association or others shall be subject to design review by a Design Review Committee elected by a majority of the Historic Kootenai Lodge Condominium Unit Owners Association, except for:

1. The reconstruction after damage or destruction by casualty of any Common Elements which is carried out in substantial conformance with "as built" plans for such Common Elements; and
2. Interior remodeling or improvements which occur solely within a Unit and which do not

affect the structural integrity or exterior appearance of the Unit.