

To: Sue Shannon, Lake County Planning Director

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

Date: September 13, 2006

Re: Draft Text for the formation of the Historic Kootenai Lodge Zoning District

SEP 14 2006
11054 R 10066 250
11372 R 10065 360

As required under condition #31 of the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge Subdivision, I am hereby submitting draft text and a map for the formation of the Historic Kootenai Lodge Zoning District. To develop the text I reviewed the subdivision staff reports, findings of fact and conditions of preliminary approval, proposed covenants, conditions and restrictions (CC&Rs) and the Swan Sites Zoning Regulations. I only included those items that were either required under the approval documents or would provide for administration of the zoning district because the landowners would like to keep the regulations as simple and streamlined as possible. If I failed to include any of the required items please let me know. As you may recall, the current owners intend to build all of the primary structures and other improvements themselves so little permitting or oversight from your office should be required for quite some time.

In the approval documents Lake County required that the final CC&Rs contain restrictions regarding wildlife attractants, vehicle parking areas, household pets, ponds and snow storage areas. I did not include these items in the draft zoning text because I am under the impression that Lake County would prefer that enforcement of these specific items be handled by the unit owners association instead of by the Planning Department and County Attorney's staff. If that is not the case, those items can be added.

The following is the draft text of the Historic Kootenai Lodge Zoning District. We hope that the Planning Board will have an opportunity to review the regulations at its October meeting.

I. Purpose

The purpose of the Historic Kootenai Lodge Zoning District is to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote public health and general welfare, provide adequate light and air; prevent overcrowding of land, avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This zoning district and regulations have been made in accordance with the Lake County Growth Policy and with consideration to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of the land. These regulations also ensure the use of the Historic Kootenai Lodge property conforms to the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge Condominium Subdivision and/or other appropriate documents.

II. Boundary

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.

III. Building setbacks

A. Swan Lake and Swan River

No new structures except lake related structures shall be located within 80 feet of the high water mark of Swan Lake and the Swan River. Modifications to existing structures within the 80-foot setback are permitted provided the structures maintain the existing lakeshore/riverside setback and secure the appropriate permits from Lake County. Existing structures located within 80 feet of the high water mark may be remodeled, expanded, repaired or rebuilt so long as no new portion of the structure extends closer than the original footprint to Swan Lake or the Swan River. Within the setback, no vegetative disturbance shall take place other than for the planting and maintenance of trees and shrubs, for the construction of walking paths, to modify existing structures and for the clearing of trees and other vegetation for the purpose of protecting public health and safety.

B. Johnson Creek

No new structures shall be located within the 100-year floodplain of Johnson Creek or within 80 feet of either side of the stream, whichever is greater. No vegetative disturbance shall take place other than for the planting and maintenance of trees and shrubs, construction of walking paths and for the clearing of trees and other vegetation for the purpose of protecting public health and safety.

C. Eastern District Boundary

All new structures shall be located a minimum of 50 feet from the eastern district boundary. Within the setback distance, no vegetative disturbance shall occur other than for the planting and maintenance of trees and shrubs, the clearing of trees for the purpose of protecting public health and safety and for the purpose of constructing roads and utilities.

D. Northern and Southern District Boundaries

All new structures shall be located a minimum of 20 feet from the northern and southern district boundaries. Any existing structures located within 20 feet of the boundaries may be remodeled, expanded or rebuilt so long as no new portion of the structure extends closer than the original footprint to the district boundaries.

IV. Use Restrictions

A. Use and Development

The final plat of the Kootenai Lodge Estates (a.k.a. The Historic Kootenai Lodge Condominium Subdivision) shows the approximate location and size of all

dwelling units. The remainder of the zoning district, unless specified otherwise, is to be used for common facilities and common area.

Individual homes and the property as a whole are for residential and recreational use of the owners and their guests. No dwelling unit or any part of the zoning district shall be used at any time for any business, trade, manufacture or other commercial purpose whatsoever, except that homes may be rented as specified below. No dwelling unit or any facilities shall be used for access by non-residents to Swan Lake and/or the Swan River. Only 42 dwelling units are permitted within the zoning district. No portion of the zoning district shall be further subdivided.

B. Nighttime Outdoor Lighting

All nighttime outdoor lighting shall be downward pointed and side shielded to prevent glare from leaving the property.

B. Fractional and Interval Ownership

The ownership of units on a fractional or interval basis is prohibited.

C. Rental of Homes

The renting of one or more homes shall be limited to a minimum of 30 days per rental period. The use of any homes or facilities for short term rental (less than 30 days) including bed and breakfasts, hotels, motels, roominghouses, boardinghouses, tourist homes and outfitting and guide facilities, as defined in Montana Code Annotated Title 50, Chapter 51, is prohibited.

D. Boat Slips

No more than 24 boat slips shall be developed within the district. Allocation and use of the slips shall be determined by the Unit Owners Association's Board of Directors or similar appropriate body.

E. Average Building Height

The average building height for new structures and/or modifications to existing structures except the Kootenai Lodge shall be a maximum of 30 feet.

F. Water and Sewer Facilities

Each unit shall be connected to water and sewer systems provided by the Kootenai Lodge-Lake County Water and Sewer District.

V. Administration

A. Permits Required Prior to Construction

Prior to the construction or remodeling of any structure greater than 100 square feet in size, a Zoning Conformance Permit shall be obtained from the Lake County Planning Department to ensure compliance with these regulations and the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge Condominium Subdivision and/or other appropriate rules and regulations. All

lake-related structures shall be permitted under the Lake County Lakeshore Protection Regulations when they are to be located 80 feet of the high water mark of Swan Lake or the Swan River.

After the initial 42 dwelling units and the Kootenai Lodge together with appurtenant structures and facilities are restored, remodeled and/or constructed, when architectural review and approval is required by a design review committee or similar body as stated in the covenants, conditions and restrictions, the applicant shall demonstrate such approval prior to any permit being issued by Lake County.

B. Amendment

These regulations may be amended only with the concurrence of a majority of the unit owners within the district. For such purposes, each unit shall have one vote.

C. Appeals, Variances and Exceptions

Appeals of a zoning officer's decision, variances and special exceptions from these regulations may be heard by the Lake County Board of Adjustment as per the policies established by Lake County.

VI. Definitions

A. Average Building Height

The vertical distance of a structure is computed by determining the average of the highest point of each major side of a structure. For the purposes of these regulations, all structures will have a maximum of four sides. The highest point shall be measured from the top of the highest component of each major side to the average ground elevation along that side. The highest point shall be determined as if the structure were to be squared off when viewing the structure from a point perpendicular to that major side. The highest point does not include typical extensions above a roofline such as chimneys or antennas. The ground elevation for this purpose shall be measured from the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of building the structure.

B. Business, Trade, Manufacture or Other Commercial Purpose

Any use of land or facilities involving the sale, rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. This does not include the rental of homes as specified above.

C. Fractional Ownership

Legal ownership and title possession to a home and property share within the Historic Kootenai Lodge Zoning District by multiple parties that are not related

by lineage or marriage. This in no way prohibits unit ownership by a limited liability company or similar entity.

D. Funneling

Non-resident access to Swan Lake or the Swan River.

E. High water mark

An approximate location along the shore of a water body that is visually identified by a distinct coloration and an accumulation of debris.

F. Interval Ownership

Legal ownership and title possession to a home and property share within the Historic Kootenai Lodge Zoning District by multiple parties that are not related by lineage or marriage whereby each party uses the facilities during different portions of the year. This in no way prohibits unit ownership by a limited liability company or similar entity.

G. Lake Related Structures

Docks, boat houses, storage facilities for aquatic equipment, enclosed facilities for the change of clothing or any other structure intended specifically for use related to the waters of Swan Lake or the Swan River.

H. Residential and Recreational Use

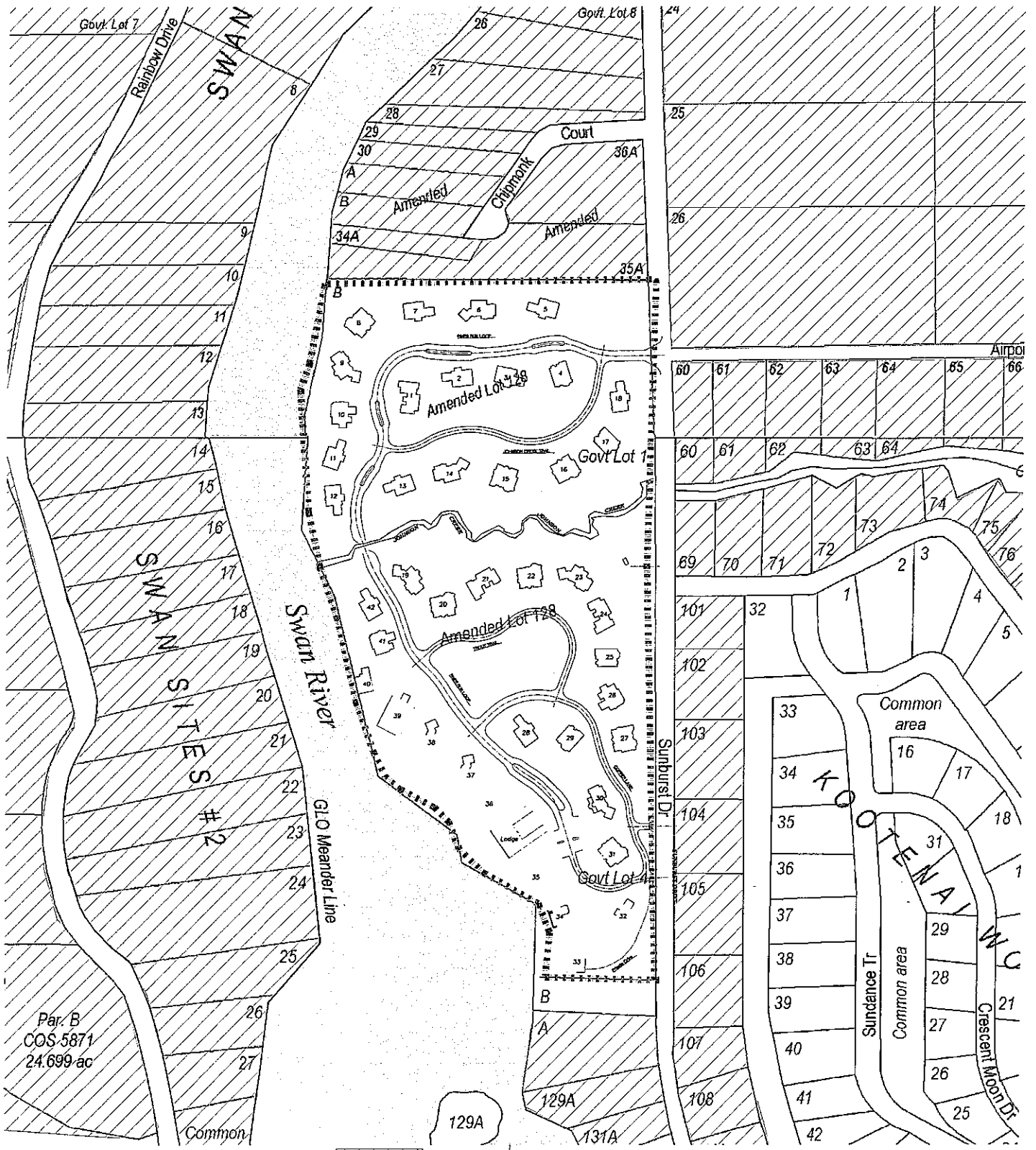
Use of one or more home and common facilities by the owner and his or her guests for occupancy and personal enjoyment. Such use is distinct from use of one or more homes and common facilities for business, trade, manufacture or other commercial purposes.

I. 100-year floodplain

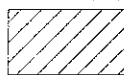
The area that will be inundated by a flood event having a one percent chance of occurring in any given year.

HISTORIC KOOTENAI LODGE ZONING DISTRICT

SEC 11, 14 T. 26 N., R 19 W., LAKE COUNTY MONTANA



NOTE: ALL HOUSES ARE APPROXIMATE LOCATIONS

 INDICATES SWAN SITES ZONING DISTRICT

1
OF
1

HISTORIC KOOTENAI LODGE
FOR
THE MILHOUS GROUP
SEC. 11, 14, T. 26 N., R 19 W., LAKE COUNTY, MONTANA

PROJECT NO. M. 85. 1
DRAWN BY: CLH
DESIGNED BY: J.J.B.
SCALE: AS SHOWN
DATE: 09-11-2008

HISTORIC KOOTENAI LODGE
ZONING DISTRICT

BE **BILLMAYER ENGINEERING**
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