

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**CONDITIONAL USE PERMIT REPORT (#FCU-20-17)**  
**SWAN PEAK PROPERTIES, LLC**  
**JANUARY 19, 2021**

**I. GENERAL INFORMATION**

**A. Project Description**

This is a report to the Flathead County Board of Adjustment regarding a request from Swan Peak Properties, LLC for a conditional use permit for a drive-through coffee stand on the subject property. The property is located within the Willow Glen Zoning District and is zoned ‘*B-1 Neighborhood/Professional Business*’.

**B. Application Personnel**

**1. Owner/Applicant**

Swan Peak Properties, LLC  
28529 Star Lane  
Bigfork, MT 59911

**C. Process Overview**

**1. Land Use Advisory Committee/Council**

The proposed land use is not located within the jurisdiction of a Land Use Advisory Committee (LUAC).

**2. Board of Adjustment**

The Flathead County Board of Adjustment will conduct a public hearing on the proposed conditional use permit on February 2, 2021 at 6:00 P.M. remotely via Zoom. Login instructions and documents pertaining to this file are available for public inspection online at [http://flathead.mt.gov/planning\\_zoning/boardofadjustment.php](http://flathead.mt.gov/planning_zoning/boardofadjustment.php).

**II. PROPERTY CHARACTERISTICS**

**A. Property Location and Size**

The subject property is located at 43 Woodland Park Drive, Kalispell, MT (see Figure 1 below). The property is approximately 1.295 acres and can be legally described as Lot 13 – 18 in Block 2 of Phillips Addition in Section 8, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

**Figure 1:** Subject property (outlined in yellow)



**B. Existing Land Use(s) and Zoning**

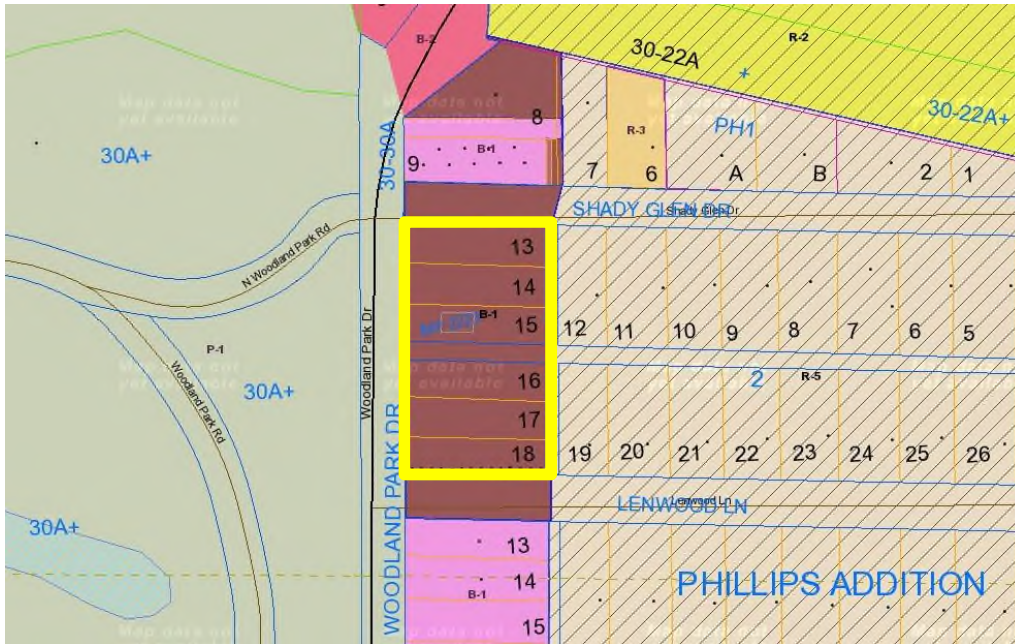
The property is located within the Willow Glen Zoning District and is zoned ‘*B-1 Neighborhood/Professional Business*’. The B-1 zoning classification is defined as, “A *business district to provide certain commercial and professional office uses where such uses are compatible with adjacent residential areas. This district should serve as a buffer between residential areas and other land-use districts and is intended to meet the daily needs of those nearby residents living within one (1) mile of the district. The district is not intended for those businesses that require the outdoor display, sale and/or storage of merchandise, outdoor services or operation, or outdoor consumption of food and beverages. This district shall be an island rather than a strip.*”

The property is currently developed with five non-conforming mini-storage buildings and a professional offices building. According to Montana Cadastral, the existing structures were constructed in 1978, 1983, and 1984, prior to the adoption of the Willow Glen Zoning District on July 20, 1987.

**C. Adjacent Land Use(s) and Zoning**

The adjacent properties to the east are zoned R-5 and are developed as residential. Nearby properties to the north and south are zoned City of Kalispell B-1 and County B-1. To the west is Woodland Park which is zoned City of Kalispell P-1 (see Figure 2 below). The surrounding commercial properties are developed with a drive-through restaurant, tavern, automobile repair shop, gas station, and a convenience store.

**Figure 2:** Zoning surrounding the subject property (outlined in yellow)



**D. Summary of Request**

The applicant is requesting a conditional use permit to allow for a drive-through coffee stand on the subject property pursuant to Section 3.18.030(6) of the Flathead County Zoning Regulations (FCZR). A ‘Drive-In/Drive-Through Restaurant’ is defined under Section 8.05.080 FCZR as, “A use wherein its retail character is dependent upon a driveway approach and parking space on the premises for motor vehicles so as to either serve customers while in the vehicle or on the premises.” The use of property for a drive-in/drive-through restaurant in the B-1 zone requires the issuance of a conditional use permit, the review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a conditional use permit.

The applicant is proposing to construct a drive-through coffee stand near the front of the property, between the Woodland Park Drive right-of-way and the existing mini-storage buildings. The structure will be 20 feet in length by 10 feet in width and will contain two drive-through windows. Access to the coffee stand is proposed via Woodland Park Drive and Shady Glen Drive.

**III. COMMENTS**

**A. Agency Comments**

1. Agency referrals were sent to the following agencies on November 30, 2020:
  - Bonneville Power Administration
  - City of Kalispell Planning Department
  - City of Kalispell Public Works
  - Flathead City-County Environmental Health Department
  - Flathead County Road and Bridge Department
  - Flathead County Solid Waste District
  - Flathead County Weeds & Parks Department
  - South Kalispell Fire District

2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
  - Bonneville Power Administration
    - Comment: “[...] At this time, the BPA does not object to this request, as the property is located 3 miles away from the nearest BPA transmission lines or structures.” Email received December 1, 2020
  - Flathead County Road and Bridge Department
    - Comment: “[...] After completing our review, we have the following comment. Woodland Park Drive is a City of Kalispell Street so they should provide comment on the proposal. Technically, Shady Glen Drive is also a City street at this location since there is a lot on the north side of the road that is within the city limits (MCA 7-2-4211). I do see that they were on the list agencies informed of the project. The County Road Department will still maintain this short section of Shady Glen Drive but jurisdiction over this stretch is also with the City of Kalispell. Traffic for this proposed coffee shop will likely almost exclusively use the City controlled streets so we’ll defer to their input on this proposal.” Letter received December 3, 2020
  - Flathead County Solid Waste District
    - Comment: “[...] After reviewing the application, the Solid Waste District views no negative impact with solid waste issues at this time.  
  
The District requests that all solid waste generated at the proposed location to be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission Licensed hauler in this area.” Letter received December 7, 2020
  - Flathead City-County Health Department – Environmental Health Services
    - Comment: “This office has no objection to operation of a Coffee Stand at the above referenced property.
    - This facility must apply for a Montana Food Service Health License. Plan Review application can be found at flatheadhealth.org. Click Env. Health Department then Food Safety and finally food service plan review.” Letter received December 9, 2020

**B. Public Comments**

1. Notification was mailed to property owners within 150 feet of the subject property on January 13, 2021, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the January 17, 2021 edition of the Daily Interlake.
2. Public Comments Received  
As of the date of the completion of this staff report, no written public comment has been received regarding the requested conditional use permit. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

**IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

**A. Site Suitability**

### **1. Adequate Usable Space**

The subject property is 1.295 acres and zoned B-1 which has a permitted lot coverage of 45%. According to Montana Cadastral and the submitted site plan, the existing structures are 24,720 square feet. The proposed coffee stand would be 200 square feet. The total lot coverage would be 24,920 square feet, which would cover approximately 44.18% of the lot.

The setback requirements for structures within the B-1 zone are 20 feet from the front and side corner, 5 feet from the side, and 15 feet from the rear property lines for all structures. An additional setback of 20 feet is required from streams, rivers, and unprotected lakes which do not serve as property boundaries. According to Montana Cadastral, the existing structures were constructed prior to the adoption of the Willow Glen Zoning District, thus the structures would be considered legally non-conforming if they did not meet the setback requirements of the B-1 zone. According to the site plan, the proposed structure would meet the setback requirements.

Based upon staff's site visit and the application materials, it appears the subject property has adequate usable space to accommodate the drive-through coffee stand.

### **2. Adequate Access**

The subject property is accessed via existing alleys off Woodland Park Drive, Shady Glen Drive, and Lenwood Lane, which are paved, two-lane, City-controlled streets within 40 and 55 foot wide right-of-ways. The site plan indicates the coffee stand would be accessed from the existing approach off Woodland Park Drive and a new approach off Shady Glen Drive. The approaches appear to have adequate sight distances onto the roads.

Comment received from the Flathead County Road Department states, "Woodland Park Drive is a City of Kalispell Street so they should provide comment on the proposal. Technically, Shady Glen Drive is also a City street at this location since there is a lot on the north side of the road that is within the city limits (MCA 7-2-4211). I do see that they were on the list of agencies informed of the project. The County Road Department will still maintain this short section of Shady Glen Drive but jurisdiction over this stretch is also with the City of Kalispell. Traffic for this proposed coffee shop will likely almost exclusively use the City controlled streets so we'll defer to their input on this proposal."

No comment was received from the City of Kalispell regarding the proposal. The applicant will be required to obtain approach permits from the City of Kalispell Public Works Department and the Flathead County Road Department, as applicable.

### **3. Absence of Environmental Constraints**

The subject property is relatively flat. According to FEMA FIRM Panel 30029C1810J, the property is within the unshaded Zone X, which is an area determined to be outside the 0.2% annual chance flood. There are no wetlands, streams, or surface waters on the property.

**Finding #1** – The subject property appears suitable for the proposed use because the drive-through coffee stand would meet the applicable setback and lot coverage requirements of the B-1 zone, the property has legal and physical access via Woodland Park Drive and Shady Glen Drive, the applicant would be required to obtain approach permits from the City of Kalispell Public Works Department and the Flathead County Road Department, and the site appears absent of environmental constraints.

## **B. Appropriateness of Design**

### **1. Parking Scheme**

The subject property currently contains paved parking adjacent to the office building along Lenwood Lane, and appears to have adequate space for temporary parking areas alongside the storage units.

Food and beverage establishments require one (1) parking space per employee on maximum shift, and five (5) stacking spaces per drive-through window, pursuant to Section 6.07.020 FCZR. Driving lanes between the parking spaces are required to be 12 feet wide for one-way traffic as set forth in Appendix A FCZR. Additionally, Section 6.01.030 FCZR requires all parking spaces to be clearly designated and demarcated.

The site plan indicates two (2) employee parking spaces are proposed in front of the storage buildings, the proposed location for the coffee stand would accommodate five (5) stacking spaces per window, and the one-way driving lanes would be a minimum of 12 feet in width. Based on staff's site visit and the submitted site plan, the parking and stacking areas appear to be appropriate to accommodate the proposed use.

## **2. Traffic Circulation**

Woodland Park Drive and Shady Glen Drive would both provide ingress and egress to the coffee stand. The site plan shows drive-through windows on the east and west side of the structure to accommodate two-way traffic across the property. Each driving lane will be a minimum of 12 feet wide. Based on the site plan, the driving lanes would meet applicable regulations, thus the traffic circulation appear to be appropriately designed.

Currently, there are no curbs or barriers restricting vehicle access from Woodland Park Drive. A safety barrier is required along the property line to limit access to and from the property when no curb and gutter exist, pursuant to Section 6.16.050 FCZR. The site plan indicates a landscaping buffer is proposed along a portion of the Woodland Park Drive right-of-way.

**Finding #2** – The parking and traffic circulation design appears adequate for the proposed use because two employee parking spaces and five stacking per drive-thru window would be provided, Woodland Park Drive and Shady Glen Drive would provide ingress and egress to the subject property, and the proposed driving lanes comply with the minimum width required for one-way traffic.

## **3. Open Space**

The permitted lot coverage for the B-1 zone is 45%. The subject property is 1.295 acres in size. According to Montana Cadastral and the submitted site plan, the existing structures are 24,720 square feet. The proposed coffee stand would be 200 square feet. The total lot coverage would be 24,920 square feet, which would cover approximately 44.18% of the lot. Based upon staff's site visit and the application materials, it appears the subject property has adequate open space.

## **4. Fencing/Screening**

The application states, "None are planned at this time, although we are considering a low hedge by Woodland Ave." There is currently a wood rail fence in front of the office building near the intersection of Woodland Park Drive and Lenwood Lane. Any additional fencing would be required to comply with Section 5.04 FCZR.

Properties within the B-1 zone which border a residential district are required to install a view-obscuring fence or hedges along the common boundary, pursuant to Section 5.05 FCZR. Currently, there are hedges and trees lining the alley along the east property line which partially screen the property from the adjacent residences. Since the portion of the property adjacent to the residential district is currently developed with non-conforming storage units,

and the proposed coffee stand would be located along Woodland Park Drive, the existing fencing and screening appear appropriate for the proposed use.

**5. Landscaping**

The property currently is primarily gravel and contains a grass buffer along Shady Glen Drive. The site plan indicates landscaping is proposed between the coffee stand and Woodland Park Drive. No landscaping is specifically required for the proposed use based on the applicable zoning regulations.

**6. Signage**

The property currently contains a freestanding sign, several building signs, and a temporary sign in association with the existing businesses. The application indicates a building sign is proposed on the coffee stand. All signage would be required to comply with the signage standards set forth in Chapter 7 of the Flathead County Zoning Regulations.

**7. Lighting**

The property currently contains exterior lighting on the existing structures. The application indicates additional exterior lighting is proposed on the coffee stand. All exterior lighting would be required to comply with the lighting performance standards set forth in Section 5.12 FZCR so as to minimize impacts to surrounding properties.

**Finding #3** – The proposed use appears appropriately designed because the majority of the property would remain open space, no additional landscaping is required, and all fencing, signage, and lighting would be required to comply with the zoning regulations.

**C. Availability of Public Services and Facilities**

**1. Sewer**

According to the application, the subject property is currently served by City of Kalispell sewer services. No comment was received from the City of Kalispell regarding the proposal. Comment received from the Flathead City-County Health Department states, “This office has no objection to operation of a Coffee Stand at the above referenced property. This facility must apply for a Montana Food Service Health License.”

The applicant will be required to obtain all necessary permitting from the City of Kalispell, Flathead City-County Health Department, and the Montana Department of Environmental Quality prior to operation of the coffee stand.

**2. Water**

According to the application, the property is currently served by a community water system. The applicant will be required to obtain all necessary permitting from the Flathead City-County Health Department and the Montana Department of Environmental Quality prior to operation of the coffee stand.

**3. Storm Water Drainage**

The application indicates there are storm water drains along the adjacent streets. The applicant is proposing an additional 200 square feet of impervious surfaces as part of this application, therefore increased storm water runoff as a result of this proposal is expected to be minimal. The applicant would be required to obtain all necessary permitting for storm water drainage from the Montana Department of Environmental Quality.

**Finding #4** – The subject property appears to have adequate availability of sewer, water, and storm water drainage facilities because the property would be served by the City of Kalispell sewer service and a community water system, stormwater runoff generated from the proposed



structure is anticipated to be minimal, and the applicant will be required to obtain all necessary permitting from the City of Kalispell, the Flathead City-County Health Department, and the Montana Department of Environmental Quality.

#### **4. Fire Protection**

The subject property is located within the South Kalispell Fire District and would be served by the South Kalispell Fire Department, which is located approximately 2.9 driving miles south of the property. The property is not located within the Wildland Urban Interface (WUI). No comments were received from the fire district regarding this proposal. Due to the proximity of the property to the local fire department, it is anticipated response times would be relatively short in the event of an emergency.

#### **5. Police Protection**

The subject property is located in an unincorporated area of the County and is therefore served by the Flathead County Sheriff's Office. Acceptable response times are anticipated in the event of an emergency due to the property's location in an urbanized area of the County.

#### **6. Streets**

The property currently has access via Woodland Park Drive, Shady Glen Drive, and Lenwood Lane. Primary access to the proposed coffee stand would be from Woodland Park Drive and Shady Glen Drive, which are paved, two-lane, City-controlled streets within a 40 foot and 55 foot wide right-of-way. The applicant will be required to obtain approach permits from the City of Kalispell Public Works Department and the Flathead County Road Department, as applicable.

**Finding #5** – The subject property appears to have adequate availability of public services for the proposed use because the South Kalispell Fire District and Flathead County Sheriff's Office would provide services to the subject property in the event of an emergency, response times are anticipated to be relatively short due to the property's location in an urbanized area of the County, Woodland Park Drive and Shady Glen Drive provide access to the property, and no comment was received from the City of Kalispell.

### **D. Immediate Neighborhood Impact**

#### **1. Excessive Traffic Generation**

Primary access to the proposed coffee stand would be from Woodland Park Drive and Shady Glen Drive, which are paved, two-lane, City-controlled streets. The most recent MDT traffic count for Woodland Park Drive was collected in 2019 and indicated 5,991 annual average daily traffic (AADT) in the vicinity of the subject property. No recent traffic counts are available for Shady Glen Drive.

According to the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, a 'Coffee/Donut Drive Thru Only' typically generates approximately 1,800 ADT per 1,000 square feet. Using these estimates, the proposed coffee stand would generate approximately 360 ADT and would increase traffic on Woodland Park Drive by 6.0%. However, according to the manual, the trip generation rate was calculated using a small sample size and should be used with caution. The application indicates excessive traffic generation is not anticipated because coffee stands generally rely on existing traffic for sales.

**Finding #6** – Traffic generated by the proposed use is anticipated to have an acceptable impact on the immediate neighborhood because although the coffee stand has the potential to increase traffic on Woodland Park Drive by 6.0%, traffic generation would likely be minimal, and no comment was received from the City of Kalispell regarding this proposal.



## **2. Noise or Vibration**

The surrounding commercial properties are developed with a drive-through restaurant, tavern, automobile repair shop, gas station, and a convenience store. While vehicles idling in the drive-through line would generate some noise on the subject property, it would be consistent with the noise generated by vehicles on the surrounding properties and adjacent roadways. It is anticipated that normal use of the drive-through coffee stand would not generate excessive noise or vibration beyond typical commercial use.

## **3. Dust, Glare or Heat**

The primary access roads are paved, while the driving and parking areas on the subject property are primarily gravel. The application states, "Cars will travel slowly so dust will be minimal." All parking areas and access driveways in the B-1 zone are required to be paved or treated with dust retardants, pursuant to Section 6.13.010(3) FCZR. The coffee stand is not anticipated to produce glare or heat that would be out of character with the surrounding commercial uses.

## **4. Smoke, Fumes, Gas, or Odors**

The application states, "There will be a slight odor of coffee, but no smoke or gas. Cars in line will produce fumes." The presence of idling vehicles has the potential to increase exhaust fumes in the area. However, the modest increase in exhaust fumes would be consistent with and no more intrusive than those created by commercial uses on surrounding properties such as the drive-thru restaurant on the adjacent property to the south.

**Finding #7** – The proposed use is anticipated to have a minimal impact on the immediate neighborhood with the imposition of conditions because noise, vibration, dust, glare, heat, smoke, fumes, gas, and odors are not anticipated to be out of character with the setting, and the applicant would be required to pave or treat the gravel parking and driving areas with dust retardants.

## **5. Inappropriate Hours of Operation**

The application states, "Hours of operation will be from 6am to 6pm at the most." There are no specific standards set forth in the Flathead County Zoning Regulations for hours of operation for a drive-thru coffee stand. Given the proposed daytime and early evening hours of operation and the surrounding commercial uses, the proposed use would likely have minimal impact on the immediate neighborhood.

**Finding #8** – The proposed hours of operation would be acceptable and would likely have minimal impact on the neighborhood because the daytime and early evening hours are relatively consistent with the adjacent surrounding commercial uses.

## **V. SUMMARY OF FINDINGS**

1. The subject property appears suitable for the proposed use because the drive-through coffee stand would meet the applicable setback and lot coverage requirements of the B-1 zone, the property has legal and physical access via Woodland Park Drive and Shady Glen Drive, the applicant would be required to obtain approach permits from the City of Kalispell Public Works Department and the Flathead County Road Department, and the site appears absent of environmental constraints.
2. The parking and traffic circulation design appears adequate for the proposed use because two employee parking spaces and five stacking per drive-thru window would be provided, Woodland

Park Drive and Shady Glen Drive would provide ingress and egress to the subject property, and the proposed driving lanes comply with the minimum width required for one-way traffic.

3. The proposed use appears appropriately designed because the majority of the property would remain open space, no additional landscaping is required, and all fencing, signage, and lighting would be required to comply with the zoning regulations.
4. The subject property appears to have adequate availability of sewer, water, and storm water drainage facilities because the property would be served by the City of Kalispell sewer service and a community water system, stormwater runoff generated from the proposed structure is anticipated to be minimal, and the applicant will be required to obtain all necessary permitting from the City of Kalispell, the Flathead City-County Health Department, and the Montana Department of Environmental Quality.
5. The subject property appears to have adequate availability of public services for the proposed use because the South Kalispell Fire District and Flathead County Sheriff's Office would provide services to the subject property in the event of an emergency, response times are anticipated to be relatively short due to the property's location in an urbanized area of the County, Woodland Park Drive and Shady Glen Drive provide access to the property, and no comment was received from the City of Kalispell.
6. Traffic generated by the proposed use is anticipated to have an acceptable impact on the immediate neighborhood because although the coffee stand has the potential to increase traffic on Woodland Park Drive by 6.0%, traffic generation would likely be minimal, and no comment was received from the City of Kalispell regarding this proposal.
7. The proposed use is anticipated to have a minimal impact on the immediate neighborhood with the imposition of conditions because noise, vibration, dust, glare, heat, smoke, fumes, gas, and odors are not anticipated to be out of character with the setting, and the applicant would be required to pave or treat the gravel parking and driving areas with dust retardants.
8. The proposed hours of operation would be acceptable and would likely have minimal impact on the neighborhood because the daytime and early evening hours are relatively consistent with the adjacent surrounding commercial uses.

## **VI. CONCLUSION**

Upon review of this application, the request to allow for a drive-through coffee stand on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-20-17 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

## **VII. CONDITIONS OF APPROVAL**

1. The drive-through coffee stand shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].

3. The drive-through coffee stand shall be located in accordance with the minimum bulk and dimensional requirements of the B-1 zoning designation, pursuant to Section 3.18.040 of the Flathead County Zoning Regulations.
4. All required parking and circulation associated with the drive-through coffee stand shall meet the applicable design guidelines set forth in the zoning regulations requiring adequate drainage, parking space delineation, and a graded, stabilized, dust-free surface that is either treated with dust-retardant or paved [FCZR 6.13.010]
5. A minimum of five (5) stacking spaces per drive-through window and two (2) employee parking spaces shall be provided on the subject property [FCZR Section 6.07.020].
6. The applicant shall obtain public approach permits from the City of Kalispell Public Works Department and the Flathead County Road Department, as applicable, for the proposed approaches onto Woodland Park Drive and Shady Glen Drive. A copy of the approved permits shall be submitted to Flathead County Planning and Zoning prior to the expiration date of this permit.
7. The proposed use shall be reviewed by the Flathead City-County Health Department in order to obtain a State of Montana Food Service License. A copy of the approved license shall be submitted to Flathead County Planning and Zoning prior to the expiration date of this permit.
8. The proposed water, wastewater treatment, and stormwater drainage systems for the drive-through coffee stand shall be reviewed and approved, as applicable, by the City of Kalispell, the Flathead City-County Health Department, and the Montana Department of Environmental Quality.
9. Lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
10. Signage on the subject property shall adhere to the standards set forth in Chapter 7 of the Flathead County Zoning Regulations.
11. Fencing on the subject property shall adhere to the performance standards set forth in Section 5.04 of the Flathead County Zoning Regulations.
12. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance. All of the above conditions must be met prior to operation [FCZR Section 2.06.060].
13. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of the activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].

Planner: EA