

**STILLWATER BEND PHASE 1 PUD**

**REQUEST FOR PUD PLANNED UNIT DEVELOPMENT  
STAFF REPORT #KPUD-19-01**

**REQUEST FOR MAJOR SUBDIVISION  
STAFF REPORT #KPP-19-02**

**KALISPELL PLANNING DEPARTMENT  
January 7, 2020**

A report to the Kalispell City Planning Board and the Kalispell City Council regarding a request from Spartan Holdings, LLC for a Planned Unit Development (PUD) and major preliminary plat applications on 25-acres. The two applications are being requested as Phase 1 within the larger 56-acre Stillwater Bend Placeholder PUD. A public hearing has been scheduled before the Planning Board for January 14, 2020, beginning at 6:00 PM in the Kalispell City Council Chambers. The Planning Board will forward a recommendation to the Kalispell City Council for final action.

**A. Petitioner and Owners:** Spartan Holdings, LLC  
341 West Second Street, Ste. 1  
San Bernardino, CA 92401

**Technical Assistance:** Jackola Engineering and Architecture  
2250 HWY 93 South  
Kalispell, MT 59903

**B. Background Information:** Spartan Holdings, LLC has submitted a commercial PUD and major preliminary plat applications on 25-acres of the larger 56-acre Stillwater Bend Placeholder PUD (B-2/RA-2 PUD). The intent of the PUD on the entire 56-acre property is to create a mixed-use residential and commercial neighborhood in proximity to other services within the northern limits of Kalispell. Given the natural boundaries, the site has the ability to develop as a “community within a community,” limiting its impact on surrounding land uses. The development would also serve as an extension of Kalispell North Town Center and will take advantage of neighboring infrastructure including Rose Crossing, new school site and water and sewer service. The applicant is now submitting a PUD application for the commercial development on the eastern portion of the property bordering U.S. 93 North (Phase 1). Phase 1 will consist of 15 commercial lots along with the necessary right-of-way (including Rose Crossing extension) needed to access each lot, sewer and water extensions, storm water facilities and open space buffers adjacent the highway and river. The request would increase the commercial designation on the 56-acre property from 19-acres to 25-acres. The

increase in acreage is primarily due to the storm water parcel that will be necessary to develop the property and is included in this phase. As part of the PUD application, the applicant is requesting a reduction in the 100-foot setback from U.S. 93 North to 50 feet and a reduction from the 200-foot setback from Stillwater River to a varying setback depending on the geotechnical analysis on the property. The residential component of the development within the RA-2/PUD Zone will be proposed as Phase 2 and will be part of a future PUD application request. The development is limited to the improvements noted above; however, the proposed development needs to take into consideration how it integrates with the overall development plan of the entire Stillwater Bend PUD.

- C. Location and Legal Description of Property:** The subject property is located at 2890 Highway 93 North, generally bound by the Stillwater River on the west and south, U.S. 93 North on the east and Northern Pines Golf Course and Falkor Defense on the north. The property can be described as Assessor's Tracts 1F and 3A in Section 25, Township 29N, Range 22W, P.M.M., Flathead County, Montana and Assessor's Tract 2B in Section 24, Township 29N, Range 22W, P.M.M., Flathead County, Montana.
- D. Size:** The proposed development encompasses approximately 25-acres of the larger 56-acre Stillwater Bend Placeholder PUD.
- E. Existing zoning:** In 2017 Spartan Holdings requested a PUD placeholder per Section 27.19.020(2)(b) of the Kalispell Zoning Ordinance. The project's land uses are based on the approved 2017 PUD Placeholder application and petition for annexation and initial zoning for the subject property, which proposed the zone the property as a mixture of B-2 General Business along U.S. 93 North, transitioning to RA-2 Residential Apartment/Office to the west towards the river.

The B-2, General Business, zoning designation is on a 19-acre portion of the 56-acre project site along U.S. 93 North. The B-2 Zoning District provides for a variety of sales and service establishments to serve both the residents of the area and the traveling public. The district depends on the proximity to major street and arterials and should be located in business corridors or islands. This zoning district would typically be found in areas designated as Commercial and Urban Mixed use on the Kalispell Growth Policy Future Land Use Map.

The RA-2, Residential Apartment/Office, zoning designation is on a 37-acre portion of the 56-acre project site. The RA-2 Zoning District provides areas for residential development including multi-family housing and compatible non-residential uses of high land use intensity. This district would typically serve as a buffer zone between other commercial districts

and adjacent residential areas. The location of this district depends on proximity to major streets, arterials, and business districts. This district shall be located within or adjacent to business corridors, shopping islands or the Central Business District. The zoning would typically be found in areas designated as Urban Mixed Use, High Density Residential and Commercial on the Kalispell Growth Policy Future Land Use Map.

**F. Proposed Zoning:** The proposed zoning of the property will be B-2 and RA-2 with a PUD Zoning overlay. As mentioned previously, the request would increase the commercial designation on the 56-acre property from 19-acres to 25-acres. Accordingly, the RA-2/PUD zoning designation on the property would decrease from 37-acres to 31-acres. The increase in commercial acreage is primarily due to the storm water parcel that will be necessary to develop the property and is included in this phase. The contents of the Planned Unit Development Zoning overlay are further outlined in Section 1 of this staff report.

**G. Existing Land Use:** The majority of the site has been historically used for agriculture purposes and is currently vegetated with grasses and ground cover. The relatively steep slopes along the Stillwater River are relatively undisturbed by past development and/or agriculture practices. The slopes are vegetated with evergreen trees, deciduous trees and significant underbrush.

**H. Adjacent Land Uses:**

North: One single-family residence, Northern Pines Golf Course and Falkor Defense/Sonju  
West: Stillwater River, vacant land and one single-family residence and appurtenant facilities (west side of river)  
South: Stillwater River and church  
East: U.S. 93 North, Kalispell North Town Center Subdivision, MDT maintenance yard and Armory.

**I. Adjacent Zoning:**

North: County SAG-10  
West: County SAG-10 and West Valley Zoning District  
South: County SAG-10 and County SAG-5  
East: City B-2/PUD

**J. General Land Use Character:** The area proposed for development can be described as a mix of uses. The general land use character of the U.S. 93 North corridor through this area is single-family, golf course, commercial and light industrial uses intermittently placed along U.S. 93 North. Moving west and east from the highway oriented businesses are larger

undeveloped tracts or rural residential tracts of land that area suitable for future development, provided the necessary infrastructure is in place.

**K. Availability of Public Services and Extension of Services:** Existing city infrastructure in this area includes city water and sewer lines within U.S. 93 North. These lines were oversized when put in place by Silverbrook Estates to serve future developments that would occur on tracts of land at the north end of Kalispell. The west side interceptor, recently completed, provides additional sewer capacities for development on the north end of town. A new traffic signal is also being installed at the intersection of Rose Crossing and U.S. 93 North once traffic warrants are met. The signal will be located at the northeast corner of the subject property. The signal will allow development within the subject property to enter onto U.S. 93 North at a safe, signalized intersection while at the same to providing a further extension of Rose Crossing to the west towards the Stillwater River.

Sewer:	City of Kalispell
Water:	City of Kalispell
Refuse:	Private contractor
Electricity:	Flathead Electric Cooperative
Gas:	NorthWestern Energy
Telephone:	CenturyTel
Schools:	School District #5, Edgerton Elementary
Fire:	City of Kalispell
Police:	City of Kalispell

**I. EVALUATION OF THE PLANNED UNIT DEVELOPMENT PROPOSAL:**

The intent of a PUD district is to serve as an overlay zoning district. The district shall function in concert with one or more of the underlying zones to provide a comprehensive, integrated development plan which will serve to modify the underlying zone and, where appropriate, subdivision standards with the intent of providing flexibility of architectural design and density as well as providing the option to mix land uses and densities while preserving and enhancing the integrity and environmental values of an area.

The Stillwater Bend Phase 1 PUD would provide a layout of 25-acres of the larger 56-acre Stillwater Bend PUD placeholder. The PUD will be a commercial PUD and function in concert with the B-2 Zone. The Stillwater Bend PUD placeholder zoned the property B-2 and RA-2 and bound the property to a future PUD application. The remaining 31-acres within the RA-2 Zone would be submitted to the City at a future date as Phase 2.

Section 27.19.030(2), Commercial PUD, has the following standards applicable to this application:

- (a) Minimum size is two acres of developable area.

*The proposed development is 25-acres in size.*

- (b) A commercial PUD may be established in areas zoned B-1 through B-5, P-1 and H-1.

*The proposed zoning for the development is B-2.*

Sections 27.19.020(4) of the zoning regulations provide that the planning board shall review the PUD application and plan based on the following criteria:

**A. The compliance of the proposed PUD with the city growth policy and in particular density and use policies of the plan:**

The proposed development is located within the Urban Mixed Use land use category. The B-2 (General Business) Zoning District permits a variety of office, commercial and residential uses that are compatible with the Urban Mixed Use designation. Additionally, the Kalispell Growth Policy Plan-It 2035 supports the project in the following ways:

*Chapter 4 – Business and Industry, Goal 2, new commercial development should occur in areas where public water and sewer are available.*

Water and sewer are located immediately adjacent the subject property within U.S. 93 North and can be extended into the proposed development.

*Chapter 4 – Land Use, Business and Industry, Goal 6, provide adequate areas within the community for commercial and industrial expansion and development.*

The proposed subdivision provides an additional area for commercial development.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - Encourage the development of compact, centrally located service and employment areas that provide easy connection between commercial and residential neighborhoods.*

The development is proposed at a developing intersection (Rose Crossing/U.S. 93 North) and provides easy connections via improved roadways and pedestrian facilities between the commercial development and residential development planned to the west. The development will also have access via automobile and

pedestrian facilities to the Kalispell North Town Center Development to the east, where additional employment, service, residential and school facilities are planned.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - A complete system of pedestrian and bike paths is important in mixed use areas.*

The development will include a path system along the highway, sidewalks throughout the development and paths along the river connecting the commercial and residential land uses on the property.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - Expand the depth of the urban highway commercial areas as mixed-use corridors, in order to provide an alternative to continued linear commercial development, concentrate more intensive uses along traffic arterials, improve business district circulation and transportation efficiency areas, by secondary street access, provide flexibility for larger development sites, and expand small business opportunities.*

The project design incorporates vehicle access directly onto U.S. 93 North through a westerly extension of Rose Crossing, which is an arterial roadway. Additionally, the development proposes a new unnamed City local street that will be extended southerly and intersect with U.S. 93 North at Lincoln Street. This new road will provide the ability to circulate through the subject proposed development without having to access U.S. 93 North.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - Avoid encroachment into established, intact residential areas*

There is not an established residential neighborhood in the project vicinity.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - Within these corridor areas, provide for higher-intensity, mixed-use areas roughly two blocks on both sides of urban highways. As distance from the highway increases, create a gradual transition into the residential neighborhoods by encouraging multi-family, office and other compatible uses as a transition tool with sensitivity to compatible design.*

The proposed development creates a two block wide commercial transition from the highway to the multi-family development that will be proposed further to the west. The B-2 Zoning will provide for an area where the neighboring RA-2 Zone can have access to services that address their daily needs without having to make prolonged trips into other areas of the city. The B-2 Zoning will be in close enough proximity that it will be accessible for pedestrians and cyclists, reducing overall vehicle trips throughout the community.

*Chapter 4 – Business and Industry (Urban Mixed-Use areas) - Allow a compatible mix of higher-intensity uses including office as well as some commercial and light industrial; medium and high density residential and public facilities.*

The B-2 Zoning District provides for a mix of high intensity uses suitable as a transition from the highway to the residential to the west.

*Chapter 4 – Business and Industry, Goal 5, large scale retail should be encouraged to develop in an architecturally compatible way and with integrated design rather than an isolated development.*

Staff is recommending as a condition of approval that the commercial development be required to have four-sided architecture. Additionally, any development will be reviewed by the City's Architecture Review Committee prior to building permit issuance.

*Chapter 1 – The Economy, GOAL #1, Encourage an adequate supply of jobs, higher median income for those jobs, and stable, diversified economy.*

The proposed development will provide for a multitude of employment opportunities of varying types and income levels when completed.

*Chapter 1 – The Economy, GOAL #3, strengthen Kalispell as a regional retail center that strives to capture more local and out of County dollars.*

The proposed development will provide a potential landing spot for more retail business seeking to locate within Kalispell.

*Highway 93 North Growth Policy Amendment, Goal 1, gateway entrances to Kalispell that enhance the community through improved design.*

The development is proposing a 50-foot landscaped highway buffer along the properties highway frontage. The City's requirement is 100-foot wide, however, with their PUD application the applicant is requesting a reduction for reasons further outlined below. Additionally, the development will gain access to the highway via controlled access through a lighted intersection at Rose Crossing and a  $\frac{3}{4}$  movement only at the intersection of the highway and the unnamed City street.

In conclusion, the proposed B-2 Zoning District with a PUD overlay is compatible with the Urban Mixed Use land use. The requested zoning district is also consistent with the above stated goals and policies of the Kalispell Growth Policy Plan-It 2035.

**B. The extent to which the PUD departs from the underlying zoning and the reasons why such departures are or are not deemed to be in the public interest, and the mitigating conditions that the PUD provides to address the deviations;**

The applicant is requesting a departure in the zoning regulations in regards to the corridor setback off of U.S. 93 North. Below is further explanation of the deviations requested:

1. Kalispell Zoning Ordinance, Section 27.20.029(3) – The purpose of this section is to implement development standards applicable to gateway entrances to the community. The entrances are an important gateway to the community, and as such should be developed in such a way that they create an inviting and positive first impression of the community. The regulations require a 100-foot highway buffer along U.S. 93 North between N. Reserve Drive and the annexation boundary. The applicant is requesting that the buffer be reduced to 50-feet. Section 27.20.029(4)(b) states that the buffer area shall not encompass more than 10% of the gross area of any parcel as platted at the time of adoption of the regulation. In this case, the parent property being developed is approximately 27-acres. Accordingly, the maximum acreage required for the buffer would be 2.7-acres. A 100-foot buffer along the entire frontage of the subject property would require approximately 3-acres. The applicant’s 50-foot buffer will encompass approximately 1.4-acres, or about 52% of what would be required. The standard is intended to protect the health, safety and welfare of traveling public by preventing or reducing traffic congestion and distracting visual clutter associated with developments along major thoroughfares. Despite the buffer reduction to 50-feet, the intent and purpose of the entrance corridor is being maintained and are in the interest of the public in the following ways:
  - a) The applicant will be constructing a new north/south unnamed City street connecting from Rose Crossing to the <sup>3</sup>/<sub>4</sub> movement aligning with Lincoln Street on the east side of U.S. 93 within Kalispell North Town Center. This new City street provides additional traffic/pedestrian circulation and could not be constructed if a 100-foot buffer were required due to the Stillwater River setbacks, as a city right-of-way is an additional 60-feet in width and there is not enough land area between the bank of the river and the highway with a 100-foot setback.
  - b) Section 27.20.029(4)(c)(4) allows frontage roads within a required buffer area that limit number of accesses onto the highway. A frontage road would reduce the amount of landscaped area within the buffer area as much as 50 feet,

even if 100-feet were provided. In this case, the developer has chosen to construct a City street that functions as a frontage road, thereby limiting the amount of accesses on and off the highway while at the same time providing a 50-foot landscaped buffer along the highway.

- c) Staff is also recommending a condition that limits the amount of free standing signage within the common area adjacent to the highway to one monument sign as defined in Section 27.20.29(1)(b). The sign shall be limited to 15-feet in height and 60 square feet per face. The sign shall also function as a common monument sign for the development. This will further the City's goal of limiting visual clutter along the highway.
- d) Lots within the development shall be limited to the sign standards applicable to the B-2 Zone, except for Lots adjacent to the common area, currently shown as Lots 1, 5, 9, 12, 14, and 15, free standing signage shall be limited to 6-feet in height and 36 square feet per face and located to the west of the building constructed on the lots.
- e) The building pads along the highway are as much as 9-feet below the edge of the highways asphalt. This differential contributes to a feeling of separation from the highway, reducing the necessity of a 100-foot setback.
- f) Staff is also recommending a 35-foot building height max for those lots immediately adjacent the highway. This coincides with the height limitation of those properties adjacent the highway within Kalispell North Town Center.

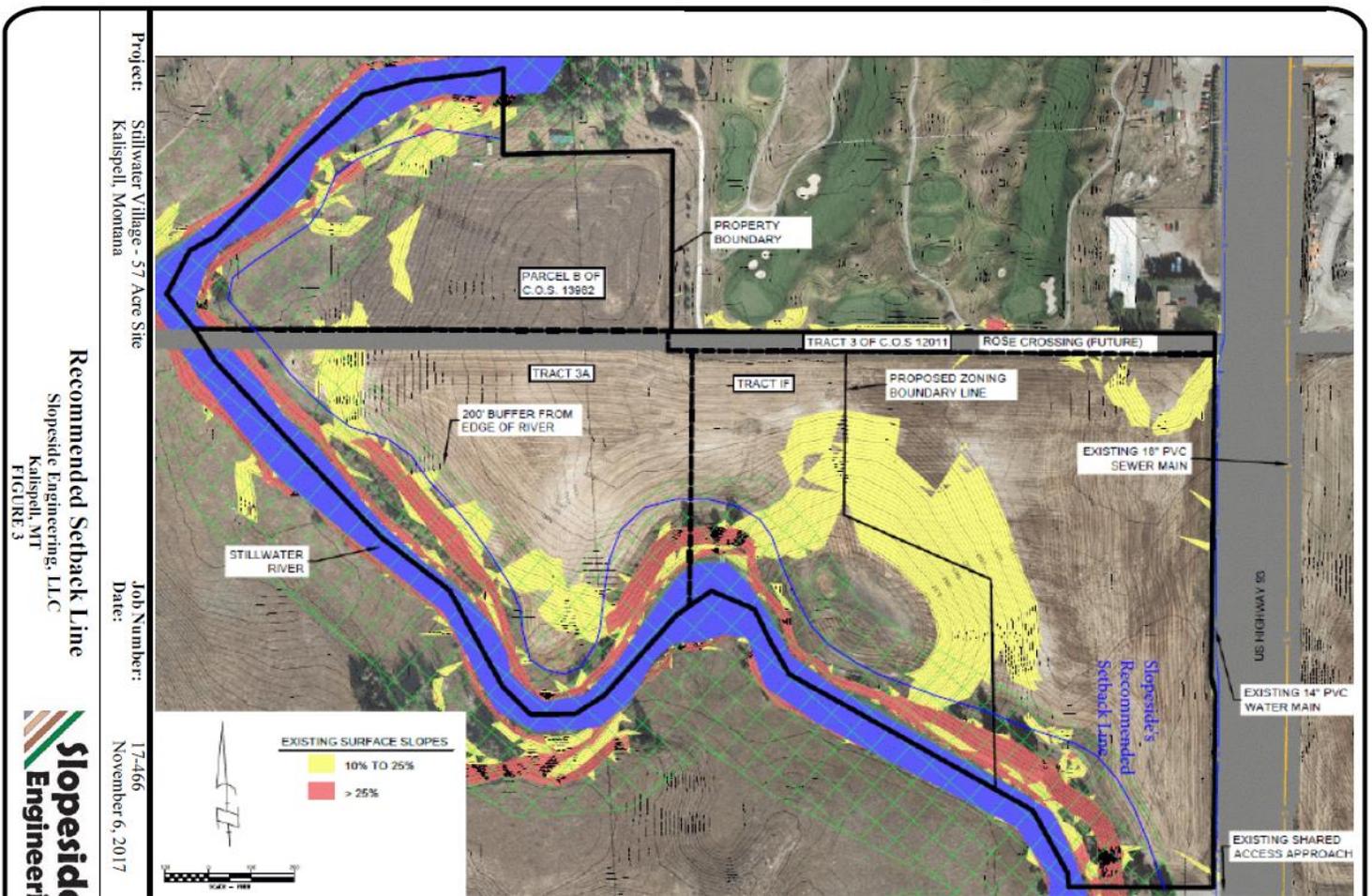
**C. The extent to which the PUD departs from the subdivision regulations (if subdivision is anticipated) and the public works standards for design and construction applicable to the subject property, the reasons why such departures are deemed to be in the public interest, and the mitigating conditions that the PUD provides to address the deviations;**

The applicant is requesting a departure in the subdivision regulations in regards to the 200-foot setback off the Stillwater River. Below is further explanation of the deviation requested:

1. Kalispell Subdivision Regulations, Section 28.3.07(B)(1) – The intent of the setback is to limit any additional negative impacts to the Stillwater River, which has been designated an “impaired river”. Montana Department of Environmental Quality has identified

nutrients, siltation/sediment, PCB's and temperature as the primary cause of impairment. The river banks and associated riparian area function as an important wildlife corridor. Lastly, the setback is in place to minimize potential property damage from a slide/sluff of the banks of the Stillwater River. The applicant has requested the reduction of the 200-foot setback to a varying setback depending on the geotechnical analysis provided. The developer can request a reduction of the setback by providing the Planning Department with sound scientific information and reasonable mitigation to address potential impacts. An analysis of the proposed reduction is provided below and the proposed reduction serves in the interest of the public in the following ways:

- a) A geotechnical consultation from Slopeside Engineering was provided by the applicant with the application. The geotechnical consultation used a Geotechnical Investigation, also completed by Slopeside Engineering, as the site assessment relied upon for planning purposes. Based on slope analysis conducted, observations of subsurface explorations and experience with similar soil structures and slopes, Slopeside Engineering recommends permanent slopes no steeper than 3H:1V for slopes in the vicinity of the slopes leading to the Stillwater River. The gradual slope recommendation of 3H:1V takes into consideration the soil types, perched water in sand lenses, existing slide debris at the toe of slope, and the presence of the Stillwater River. Due to the uncertainty of the material below the toe of the slope and erosion patterns of the Stillwater River in this area, they also recommend an additional 20-foot setback from the crest of the 3H:1V slope. In Slopeside's opinion, the setback line presented is appropriate and will provide the opportunity to address small failures and provide adequate drainage and mitigation if the property develops. FIGURE 1 showing the proposed setback is below. The recommended setback from the geotech report is shown in blue and the 200-foot setback required by the subdivision regulations is shown in the green hatching. As you can see, in some areas the requested setback area is relatively close to the required setback and in some areas less.



**FIGURE 1:** Geotech recommended setback (Blue Line), 200' setback green hatching.

Based off the information provided by a licensed professional engineer, staff feels that the reduction based off of the geotechnical study is warranted. However, due to the fact that the subdivision is proposing a new City street in close proximity to the slope, staff is recommending a condition that a third party analysis/peer review of the study is completed prior to construction for long-term viability purposes. Although the slope stability concerns have been addressed, there are still concerns with the wildlife corridor and impairment of the river which is further addressed below.

- b) The river banks and associated riparian areas function as important wildlife habitat. The subject property has very little riparian habitat due to its history of farming. Montana Fish Wildlife and Parks generally recommends a 100-foot setback from rivers in order to preserve habitat. In this case, there is very little riparian habitat on the property and all existing riparian habitat on the property is being maintained. Staff is recommending as a condition of the project that a minimum setback of 100-feet from the river be maintained for wildlife.

Staff is also recommending that riparian habitat be restored within the setback in those areas where there is none. Riparian restoration is the reestablishment of riparian functions and related physical, chemical, and biological linkages between terrestrial and aquatic ecosystems. It repairs the diversity and dynamics of ecosystems degraded by human impacts. If you look at the map above, 100-feet is generally the same setback the geotech report is recommending. It should be noted that the setback area does qualify as a recreational amenity for the development and a trail system can be located within the setback. The 100-foot setback will provide for wildlife habitat, provide recreational opportunity, slope stability and will improve upon factors that contribute to the impairment of the Stillwater River, further explained below.

- c) As mentioned previously, the Stillwater River has been designated an “impaired river”. Montana Department of Environmental Quality has identified nutrients, siltation/sediment, PCB’s and temperature as the primary cause of impairment. Generally, City development in of itself would lead to an improvement of this property’s impacts on the Stillwater River in all facets listed above vs. the property’s current use of farming. Historical and active farming activity all up and down the Stillwater River is the primary reason for the impairment. Staff is recommending a 100-foot setback and riparian area restoration in order to improve upon the factors leading to the Stillwater River’s impairment. The 100-foot setback mentioned above for wildlife will also function as a filter for runoff, silt/sediment, shade, etc. before entering the water body. This setback in coordination with the City’s storm water management program will improve the properties current impacts, even with a reduction from the 200-foot setback currently required.

**D. The overall internal integrity of the PUD including the appropriate use of internal design elements, the use of buffers between different land uses, the use of transitions between uses of greater and lesser intensity, the use of enhanced design features to provide connectedness for both vehicle and pedestrian traffic throughout the PUD and the use of innovative and traditional design to foster more livable neighborhoods;**

Rose Crossing is being extended westerly from the intersection of U.S. 93 North to the subdivision’s western boundary. The intersection of Rose Crossing and U.S. 93 North is developing into a major intersection that will accommodate the type of development proposed in an area designated as Urban Mixed Use,

similar to Kalispell North Town Center to the east. Design features such as; four-sided architecture, landscape features, downward lighting, limited freestanding signage, increased greenspace, riparian restoration and bike paths are being recommended by staff. The commercial development proposed within this Phase 1 will function as a commercial center that transitions into the high density residential that will develop to the west. The development will provide for an area that the neighboring high-density residential can have access to services that address their daily needs without having to make prolonged trips into other areas of the city. The commercial development will be in close enough proximity to other residential uses that it will be accessible for pedestrians and cyclists, reducing overall vehicle trips throughout the community. The development meets the city's goal of providing adequate areas in the community for commercial development that meets the needs of present and future business in terms of cost, type, design and location. The applicant will also be constructing a new north/south unnamed City street connecting from Rose Crossing extension to the  $\frac{3}{4}$  movement aligning with Lincoln Street on the east side of U.S. 93 within Kalispell North Town Center. This unnamed City street will function as a frontage road, thereby limiting the amount of accesses on and off the highway. At this time, it is important to consider how Phase 1 and Phase 2 will connect. There is 1.4-acres of open space/buffer area adjacent the highway that functions as a 50-foot wide buffer between the development and the highway and will include a trail system tying into the Rose Crossing extension and new unnamed north/south City street. Further, the trail system proposed within the river setback will connect into the City Streets providing a seamless connection between the two phases.

**E. The nature and extent of the common open space in the planned development project, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and function of the open space in terms of the land use, densities and dwelling types proposed in the plan;**

As Phase 1 is commercial no open space is required. However, there is 1.4-acres of open space/buffer area adjacent the highway that functions as a 50-foot wide buffer between the development and the highway and will include a trail system tying into the Rose Crossing extension and new unnamed north/south City street. Further, the trail system proposed within the river setback will connect into the City Streets and provide a recreational amenity for those working and residing in the area. Additional recreational components to the property will be further considered with Phase 2 of the development when the residential component of the property is requested.

As currently proposed, a future property owners' association would be set up to maintain the open space and other park areas within the future subdivisions on the project site. These areas include all open space areas shown on the

PUD plan. It is therefore imperative that these areas be well maintained for the visual aspect of the Stillwater Bend project from adjacent properties and the highway, the safety of the pedestrian paths and the on-going functionality of the storm water facilities. Therefore, staff recommends that a note shall be placed on the final plat indicating a waiver of the right to protest creation of a park maintenance district.

**F. The manner in which said plan does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further the amenities of light or air, recreation and visual enjoyment;**

Public service facilities and infrastructure are adequate for the development of this site. Any new improvements to the property such as internal roads, traffic lights, storm water retention and water/sewer connections would be installed in accordance with city policies and standards at the developers' expense. A Traffic Impact Study was completed by the developer and outlined below.

Water: Water to the subdivision will be provided by the City of Kalispell. The applicant will extend water service to the property from U.S. 93 North. The water system for the subdivision will be reviewed and approved by the Kalispell Public Works Department as part of the development of the subdivision. There is adequate capacity within the city's water system to accommodate this subdivision.

Sewer: Sewer to the subdivision will be provided by the City of Kalispell. The applicant will extend sewer service to the property from U.S. 93 North. The sewer system for the subdivision will be reviewed and approved by the Kalispell Public Works Department as part of the development of the subdivision. There is adequate capacity within the city's sewer system to accommodate this subdivision.

Access and Roads: The subdivisions main entrance will be off Rose Crossing, which will be extended westerly and be improved to arterial standards. The applicant will also be constructing a new north/south unnamed City street connecting from Rose Crossing extension to the  $\frac{3}{4}$  movement aligning with Lincoln Street on the east side of U.S. 93 within Kalispell North Town Center. This unnamed City street will function as a frontage road, thereby limiting the amount of accesses on and off the highway.

Control over vehicular traffic: The developer hired Abelin Traffic Services to prepare a traffic impact study for the proposed project. The traffic impact study analyzed the full buildout of the proposed development, including Phase 1 and Phase 2. The traffic study was prepared using standard techniques to forecast traffic volumes and operations at 3 nearby study intersections. The following intersections were analyzed in the study:

1. U.S. 93 and Rose Crossing
2. U.S. 93 and Lincoln Street
3. U.S. 93 and Whitefish Stage

As proposed, the Stillwater Bend Subdivision will not create any new roadway capacity problems that have not already been identified and planned for mitigation with the Kalispell North Town Center project.

The development has provided for individual automobiles, pedestrian and bicycle traffic in the PUD proposal. To provide for a greater diversity of transportation options planning staff would recommend that the developer work with Eagle Transit to establish at least one bus stop location in the project site. Eagle Transit provides transportation in a safe manner for the transportation-disadvantaged and the general public of Flathead County and has a fixed route within the county and has several bus stops within the City of Kalispell. With this development it may be time for Eagle Transit to consider a stop in the project area to serve the residents on this end of town, as upon completion of this development there will be a significant number of residents at the north end of town.

Storm Water: Roadways will be paved and curb and gutter will channel runoff to designed low points, where storm water will be collected and routed to a storm water pond. Storm water runoff from the site shall be managed and constructed per the City of Kalispell Construction and Design Guidelines and storm water management program. Final design will be approved by Kalispell Public Works Department prior to building permit issuance. Additionally, prior to receiving a building permit the developer will need to submit a construction storm water management plan to the Public Works Department. This plan will need to show how storm water will be treated and where it will be directed during construction activities.

Schools: The property is within the boundaries of School District #5 and Edgerton Elementary. As the development is commercial there will not be an impact on the schools as far as additional students. Phase 2 will have a potential impact on the school district because of the residences that will be constructed, however, Section 76-3-608(1) of the Montana Code Annotated states that the governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

Police: Police services will be provided by the Kalispell Police Department. The department can adequately provide service to this subdivision.

Fire Protection: Fire protection services will be provided by the Kalispell Fire Department. The department can adequately provide service to this subdivision. Additionally, the road network to the subdivision provides

adequate access for fire protection. Fire station 62 is located approximately 1.5 miles away providing good response time.

The City of Kalispell requires developments to complete a minimum of two-thirds of the necessary public infrastructure (water, sewer, roads, etc.) prior to filing the final plat for subsequent subdivisions. This has been included in the list of conditions to insure that, prior to issuing a building permit on a new lot, there is access which meets the fire department's minimum standards as well as adequate water and sewer services are available.

**G. The relationship, beneficial or adverse, of the planned development project upon the neighborhood in which it is proposed to be established;**

The proposal is compliant with the Urban Mixed Use land use category on the Kalispell Growth Policy Future Land Use Map. The character in which the development is located is commercial, light industrial and open space (Golf Course). The addition of development is complimentary to the established commercial/industrial uses to the north, south and east. The proposed land use conforms with the B-2 Zoning on the property currently.

**H. In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect and maintain the integrity of the plan which finding shall be made only after consultation with the city attorney;**

At this time only Phase 1 of the development is proposed. Section 27.19.020(10), Abandonment and Expiration, outlines procedures to be followed when the PUD fails to comply with a completion schedule.

Part of the requirements of the PUD is that the developer would enter into an agreement with the City of Kalispell to adequately insure that the overall integrity of the development, the installation of required infrastructure, architectural integrity and proposed amenities, are accomplished as proposed. A recommended condition of approval for the PUD would require this agreement be in place prior to filing the final plat for the first phase of the project.

**I. Conformity with all applicable provisions of this chapter.**

No other specific deviations from the Kalispell Zoning Ordinance or Subdivision Regulations can be identified based upon the information submitted with the application other than those addressed in this report.

## **II. Evaluation Based on Statutory Criteria**

This report evaluates the request in accordance with state and local regulations. The statutory basis for reviewing a change in zoning is set forth by Section 27.29.020 of the Kalispell Zoning Ordinance and 76-2-303 M.C.A. Findings of Fact for the zone change request are discussed relative to the itemized criteria described by 76-2-304, M.C.A.

1. Is the zoning regulation made in accordance with the growth policy?

See Section 1 (A) above.

2. Does the zoning regulation consider the effect on motorized and non-motorized transportation systems?

The developer hired Abelin Traffic Services to prepare a traffic impact study for the proposed project. The traffic impact study analyzed the full buildout of the proposed development, including Phase 1 and Phase 2. The traffic study was prepared using standard techniques to forecast traffic volumes and operations at 3 nearby study intersections. The following intersections were analyzed in the study:

1. U.S. 93 and Rose Crossing
2. U.S. 93 and Lincoln Street
3. U.S. 93 and Whitefish Stage

As proposed, the Stillwater Bend Subdivision will not create any new roadway capacity problems that have not already been identified and planned for mitigation with the Kalispell North Town Center project.

3. That historical uses and established use patterns and recent change in use trends will be weighed equally and consideration not be given to one to the exclusion of the other.

The requested zone is in compliance with the growth policy and the city anticipated the property would develop in the requested manner. Additionally, the proposed PUD in conjunction with the B-2 zoning district is consistent with the surrounding commercial character of the area and its location adjacent to the U.S. 93 North right-of-way.

4. Is the zoning regulation designed to secure safety from fire and other dangers?

At the time this property is developed, the property owners will be required to insure that there is adequate infrastructure in the case of an

emergency. There are no features related to the property which would compromise the safety of the public. New construction will be required to be in compliance with the building and safety codes of the city. All municipal services including police and fire protection, water and sewer service is available to the property. The site is within the immediate service area of the Kalispell Fire Station 62.

5. Is the zoning regulation designed to promote public health, public safety, and the general welfare?

The requested zoning classification will promote the health and general welfare by restricting land uses to those which would be consistent with the city's growth policy map and provide a place for new urban commercial development. As with safety from fire and other dangers, the general health, safety, and welfare of the public will be promoted through general city regulations designed to regulate allowable uses. In this case, those regulations are provided for within the B-2 Zoning standards and Stillwater Bend PUD Zoning Overlay.

6. Does the zoning regulation consider the reasonable provision of adequate light and air?

The requested PUD does not modify in a manner that would negatively impact required setback, height, and lot coverage standards of the B-2 Zoning District, which are established in the Kalispell Zoning Ordinance to insure adequate light and air are provided.

7. Will the requested zone promote compatible urban growth?

The proposed PUD in conjunction with the B-2 Zoning District is consistent with the surrounding commercial character of the area and its location adjacent to the U.S. 93 right-of-way.

8. Will the requested zone avoid undue concentration of people?

Minimum lot standards and use standards will avoid the undue concentration when the property develops.

9. Is the zoning regulation designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements?

Improvements to the property such as water, sewer and drainage would be installed in accordance with city policies and standards at the developer's expense, thereby insuring that there is adequate provision of services to the site prior to development. Any development is reviewed by the city's

Site Review Committee to ensure any impacts to the public infrastructure are adequately addressed.

10. Does the requested zone give consideration to the particular suitability of the property for particular uses?

The proposed development would permit uses consistent with the surrounding land uses already established along the U.S. 93 North corridor. The proposed zoning district can therefore be found to give due consideration of the suitability of this property for the permitted uses in the district.

Given the natural boundaries, the site has the ability to develop as a “community within a community,” limiting its impact on surrounding land uses. Surrounding land uses consist of the Stillwater River at the west and south, Falkor/Sanju and golf course to the north and U.S. 93 North 93 to the east.

11. Will the proposed zone conserve the value of buildings?

Value of the buildings in the area will be conserved because the B-2 zoning with a PUD Zoning overlay will promote compatible and like uses on the project site which can be found on other properties in the area.

12. Will the requested zone encourage the most appropriate use of the land throughout the municipality?

Commercial and residential development should be encouraged in areas where services and facilities are available to support these types of uses permitted or conditionally permitted under the B-2 and RA-2 Zoning Districts. The proposed zoning with a PUD overlay is appropriate given the changes that are occurring in the vicinity.

### **III. REVIEW AND FINDINGS OF FACT FOR THE MAJOR PRELIMINARY PLAT**

#### **A. Effects on Health and Safety:**

Fire: The property would be considered to be at low risk of fire because any building constructed within the subdivision would be built in accordance with the International Fire Code and have access which meets city standards. The area to be built upon does not have steep slopes or woody fuels. Hydrants will be required to be placed in

compliance with the requirements of the Uniform Fire Code and approved by the Fire Chief.

Flooding: The subject property is located directly adjacent the Stillwater River. The Stillwater River is mapped by FEMA as a “Zone A” floodplain. Flood Insurance Rate Map, panel number 30029C14215J shows the entire subdivision to be outside of the 100-year floodplain. No development is proposed within the mapped floodplain. Additionally, staff is recommending remediation within the buffer area that will serve to decrease flooding risk of the property and improve bank stability.

Access: The subdivisions main entrance will be off Rose Crossing, which will be extended westerly and be improved to arterial standards. The applicant will also be constructing a new north/south unnamed City street connecting from Rose Crossing extension to the  $\frac{3}{4}$  movement aligning with Lincoln Street on the east side of U.S. 93 within Kalispell North Town Center. This unnamed City street will function as a frontage road, thereby limiting the amount of accesses on and off the highway.

Geology: A geotechnical consultation from Slopeside Engineering was provided by the applicant with the application. The geotechnical consultation used a Geotechnical Investigation, also completed by Slopeside Engineering, as the site assessment relied upon for planning purposes. Based on slope analysis conducted, observations of subsurface explorations and experience with similar soil structures and slopes, Slopeside Engineering recommends permanent slopes no steeper than 3H:1V for slopes in the vicinity of the slopes leading to the Stillwater River. The gradual slope recommendation of 3H:1V takes into consideration the soil types, perched water in sand lenses, existing slide debris at the toe of slope, and the presence of the Stillwater River. Due to the uncertainty of the material below the toe of the slope and erosion patterns of the Stillwater River in this area, they also recommend an additional 20-foot setback from the crest of the 3H:1V slope. Based off the information provided by a licensed professional engineer, staff feels that the reduction based on the geo tech report is warranted. However, due to the fact that the subdivision is proposing a new City street in close proximity to the slope, staff is recommending a condition that a third party analysis/peer review of the study is completed prior to construction for long-term viability purposes.

**B. Effects on Wildlife and Wildlife Habitat:**

The Stillwater River, river banks and associated riparian areas function as important wildlife habitat. In this case, there is very little riparian habitat on the property and all existing habitat is being maintained. Montana Fish Wildlife and Parks generally recommends a 100-foot

setback from rivers in order to preserve habitat Staff is recommending as a condition of the project that a minimum setback of 100-feet from the river be maintained for wildlife. Staff is also recommending that riparian habitat be restored within the setback in those areas where there is none currently.

**C. Effects on the Natural Environment:**

Surface and groundwater: The subdivision will be served by public water and sewer thereby minimizing any potential impacts to groundwater. Small portions of the property are located within designated wetlands adjacent the Stillwater River. Staff is recommending a 100-foot setback and riparian area restoration in order to improve upon the factors leading to the Stillwater River's impairment. The 100-foot setback mentioned above will function as a filter for runoff, silt/sediment, shade, etc. before entering the water body. This setback in coordination with the City's storm water management program will improve the properties current impacts to the Stillwater River.

Drainage: Curbs and gutters will be installed and a storm management plan will have to be developed to address the runoff from the site. A preliminary plat includes a common area storm water lot where a storm water pond will be constructed that will outfall into the Stillwater River. The drainage plan will have to comply with the City of Kalispell standard and designed by a professional engineer.

A condition of approval requires that a property owners' association be created for the maintenance of the common area which would include the common area drainage easements. As part of the storm easement areas the association will be required to mow the area to reduce fire hazard and reduce spread of noxious weeds. Lastly, the developer is required to submit for review to the Kalispell Public Works Department an erosion/sediment control plan for review and approval. These plans provide for managing storm water on the site and include stabilizing the construction site through an approved revegetation plan after site grading is completed.

**D. Effects on Local Services:**

Water: Water to the subdivision will be provided by the City of Kalispell. The applicant will extend water service to the property from U.S. 93 North. The water system for the subdivision will be reviewed and approved by the Kalispell Public Works Department as part of the development of the subdivision. There is adequate capacity within the city's water system to accommodate this subdivision.

Sewer: Sewer to the subdivision will be provided by the City of Kalispell. The applicant will extend sewer service to the property from U.S. 93 North. The sewer system for the subdivision will be reviewed and approved by the Kalispell Public Works Department as part of the development of the subdivision. There is adequate capacity within the city's sewer system to accommodate this subdivision.

Access and Roads: The subdivision's main entrance will be off Rose Crossing, which will be extended westerly and be improved to arterial standards. The applicant will also be constructing a new north/south unnamed City street connecting from Rose Crossing extension to the <sup>3</sup>/<sub>4</sub> movement aligning with Lincoln Street on the east side of U.S. 93 within Kalispell North Town Center. This unnamed City street will function as a frontage road, thereby limiting the amount of accesses on and off the highway.

Schools: The property is within the boundaries of School District #5 and Edgerton Elementary. As the development is commercial there will not be an impact on the schools as far as additional students. Phase 2 will have a potential impact on the school district because of the residences that will be constructed, however, Section 76-3-608(1) of the Montana Code Annotated states that the governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

Police: Police services will be provided by the Kalispell Police Department. The department can adequately provide service to this subdivision.

Fire Protection: Fire protection services will be provided by the Kalispell Fire Department. The department can adequately provide service to this subdivision. Additionally, the road network to the subdivision provides adequate access for fire protection. Fire station 62 is located approximately 1.5 miles away providing good response time.

Parks Recreation: As currently proposed, a future homeowner's association would be set up to maintain the open space and other park areas within the future subdivisions on the project site. These areas include all open space areas shown on the PUD plan. It is therefore imperative that these areas be well maintained for the visual aspect of the Stillwater Bend project from adjacent properties and the highway, the safety of the pedestrian paths and the on-going functionality of the storm water facilities. Therefore, staff recommends that a note shall be placed on the final plat indicating a waiver of the right to protest creation of a park maintenance district. This district shall only be activated in the event that the property owners' association defaults on their park and open space amenity conditions. The taxes levied within the maintenance

district shall be determined by the Parks and Recreation Department with approvals by the Kalispell City Council.

Solid Waste: Solid waste will be handled by private disposal. There is sufficient capacity within the landfill to accommodate this additional solid waste generated from this subdivision.

Medical Services: Ambulance service is available from the fire department and ALERT helicopter service. Kalispell Regional Medical Center is approximately 3 miles from the site.

**E. Effects on Agriculture and agricultural water user facilities:**

The site has been traditionally used for agricultural uses including crop production. According to the Kalispell Growth Policy Resources and Analysis Section, “Important Farmlands” map, the project generally has a farmland classification of “prime farmland’ when irrigated.

Current policies in the Kalispell Growth Policy Plan-It 2035, Chapter 5, Land Use: Natural Environment, state the following:

*Policy* – Encourage urban growth only on agriculture lands entirely within the city’s annexation policy boundary.

The subject property is entirely within city limits. Allowing higher density development within the city’s growth policy area, it could reasonably be expected that more farmland could be conserved because the availability of residential and commercial lots within the Kalispell Growth Policy boundary, limiting sprawl/leapfrog development.

**F. Relation to the Kalispell Growth Policy:**

The subject property is located within the Urban Mixed Use land use category of the Kalispell Growth Policy Future Land Use Map. Urban Mixed Use typically embraces the following concepts of which this project incorporates:

1. Encourages the development of compact, centrally located service and employment areas that provide easy connections between existing commercial and residential neighborhoods.
2. A complete system of pedestrian and bike paths is important in mixed-use areas.

3. Expand the depth of urban highway commercial areas as mixed-use corridors, in order to provide an alternative to linear commercial development, concentrate more intensive uses along traffic arterials, improve business district circulation and transportation efficiency areas, by secondary street access, provide flexibility for larger development sites, and expand small business opportunities.
4. Within these corridor areas, provide for higher-intensity, mixed-use areas roughly two blocks on both sides of urban highways. As distance from the highway increases, create a gradual transition into the residential neighborhoods by encouraging multi-family, offices and other compatible uses as a transition tool with sensitivity to compatible design.
5. Avoid encroachment into established, intact residential areas.
6. Allow a compatible mix of higher-intensity uses including office as well as some commercial and light industrial; medium and high-density residential and public facilities.

**G. Compliance with Zoning:**

The request is in compliance with the B-2 Zoning regulations, provided the highway buffer deviation request granted.

**H. Compliance with the Kalispell Subdivision Regulations:**

This request complies with provisions of the Kalispell Subdivision Regulations, provided the river setback deviation requested.

**RECOMMENDATIONS:**

- I. Staff recommends that the Kalispell City Planning Board and Zoning Commission adopt Staff Report #KPUD-19-01 as findings of fact and recommend to the Kalispell City Council that the PUD for Stillwater Bend Phase be approved subject to the conditions listed below:
- II. Staff recommends that the Kalispell City Planning Board and Zoning Commission adopt staff report #KPP-19-02 as findings of fact and recommend to the Kalispell City Council that the preliminary plat for

Stillwater Bend Phase 1 be approved subject to the conditions listed below:

**CONDITIONS OF APPROVAL**

1. The Planned Unit Development for Stillwater Bend allows the following deviations from the Zoning Regulations:
  - a) Kalispell Zoning Ordinance, Section 27.20.029(3) – Allows a reduction of the entrance corridor highway buffer from 100-feet to 50-feet.
2. The Planned Unit Development for Stillwater Bend allows the following deviations from the Kalispell Subdivision Regulations:
  - a. Kalispell Subdivision Regulations, Section 28.3.07(B)(1) – Allows a reduction in Stillwater River setback from 200-feet to the setback line determined by the geotechnical report, provided the setback cannot be less than 100-feet.
3. A 100-foot Stillwater River setback shall be restored with native riparian habitat. A landscape plan shall be submitted by a specialist (landscape architect, engineer, hydrologist, botanist, scientist, etc.) with experience in riparian area restoration. The landscape plan shall be approved by the Parks and Recreation Director in addition to any other applicable governmental agencies prior to final plat.
4. A third party analysis/peer review of the Slopeside Engineering geotechnical analysis shall be provided prior to final plat. Public Works shall review the additional analysis and recommend any necessary reconciliation between the two.
5. Architectural renderings are required to be submitted to the Kalispell Architectural Review Committee for review and approval prior to issuance of a building permit. Building design shall be provided as listed below:
  - a. Four sided architecture is required for all structures and buildings. Large, rectangular masses should be avoided by incorporating offsets in the wall and roof. A change in the plane of the walls, changing the direction or providing some variety in the roof form gives diversity and visual interest.

- b. Entries should be a prominent component of the building face by providing an architectural covered or recessed entry with modified roof accent and increased usage of windows and trim.
  - c. Franchise architecture may be subject to modification to achieve the building style objectives.
  - d. The design of gas pump islands shall be architecturally integrated with other structures on-site using similar colors, materials and architectural detailing.
  - e. All roof mounted equipment, i.e. HVAC, should be shielded from all views.
6. Free standing signage within the common area adjacent to the highway shall be limited to one monument sign as defined in Section 27.20.29(1)(b). The sign shall be limited to 15-feet in height and 60 square feet per face. The sign shall also function as a common monument sign for the development.
  7. Lots within the development shall be limited to the sign standards applicable to the B-2 Zone, except for Lots adjacent to the common area, currently shown as Lots 1, 5, 9, 12, 14, and 15. Free standing signage on those lots shall be limited to 6-feet in height and 36 square feet per face and located to the west of the building constructed on the lots.
  8. Buildings on Lots 1, 5, 9, 12, 14, and 15 shall be limited to 35-feet in height.
  9. The storm water pond shall be designed in a way that it becomes a visual interest to the development. Chain link fencing surrounding the retention pond as the dominant fixture is prohibited. The developer shall work closely with the Parks Department and Public Works to come up with a design that is both visually appealing and meets the required safety guidelines. It is intended that when the project is developed the pond will act as a recreational feature and extension of the Stillwater River buffer, rather than a private maintenance utility facility.
  10. An 8-foot concrete path shall be constructed within the common area connecting the unnamed north/south City street to Phase 2 to the west.
  11. 5-foot sidewalks shall be constructed within the private drives accessing Lots 1-8.
  12. Direct access onto Rose Crossing shall be prohibited.

13. Rose Crossing shall be extended to the subdivision's western property boundary and a temporary turnaround constructed.
14. The development of the site shall be in substantial compliance with the application submitted, the site plan, materials and other specifications as well as any additional conditions associated with the preliminary plat as approved by the city council.
15. The preliminary plat approval shall be valid for a period of three years from the date of approval.
16. The developer shall submit to the Kalispell Public Works Department for review and approval a storm water report and an engineered drainage plan that meets the requirements of the current city standards for design and construction. Prior to final plat, a certification shall be submitted to the public works department stating that the drainage plan for the subdivision has been installed as designed and approved.
17. The developer shall submit to the Kalispell Public Works Department prior to construction an erosion/sediment control plan for review and approval and a copy of all documents submitted to Montana Department of Environmental Quality for the General Permit for Storm Water Discharge Associated with Construction Activities.
18. The developer shall submit water and sanitary sewer plans, applicable specifications, and design reports to the Kalispell Public Works Department and the Montana Department of Environmental Quality for concurrent review, with approval of both required prior to construction.
19. Water mains shall not terminate in dead ends.
20. The developer shall submit the street design to the Kalispell Public Works Department for review and approval prior to construction. Street designs shall meet the city standards for design and construction.
21. Prior to final plat, a letter from the Kalispell Public Works Department shall be submitted stating that all new infrastructure has been accepted by the City of Kalispell or a proper bond has been accepted for unfinished work.
22. The developer shall obtain an approach permit from the Montana Department of Transportation (MDT) for approaches onto U.S. 93 North. If any improvements are necessary at the intersection of the roadways, these improvements shall be completed to the satisfaction of the MDT prior to final plat and MDT shall so certify this in writing to the city.

23. Prior to final plat all mitigation required as part of the approved traffic impact study shall be completed. All improvements shall be reviewed and approved by either the Public Works Department or Montana Department of Transportation. A letter from the Kalispell Public Works Department or Montana Department of Transportation shall be submitted stating that all new infrastructure has been accepted by the City of Kalispell or State of Montana. If infrastructure work has not been accepted, a letter stating that a proper bond has been accepted for the unfinished work by the appropriate agency is required.
24. All existing and proposed easements shall be indicated on the face of the final plat. A letter from the Kalispell Public Works Department shall be obtained stating that the required easements are being shown on the final plat.
25. The following statement shall appear on the final plat: "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever."

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Developer's Signature

26. Prior to filing the final plat, a letter from the US Postal Service shall be included stating the Service has reviewed and approved of the design and location of the mail delivery site. The mail delivery site shall be installed or bonded for prior to final plat. In addition, the mail delivery site and improvements shall also be included in the preliminary and final engineering plans to be reviewed by the Public Works Department. The mail delivery site shall not impact a sidewalk or proposed boulevard area.
27. A property owners' association (POA) shall be formed and established for the common areas prior to final plat. The POA should include provisions for the maintenance of all common areas.
28. A letter from the Kalispell Fire Department approving the access, placement of the fire hydrants and fire flows within the subdivision shall be submitted prior to final plat.
29. A letter shall be obtained from the Parks and Recreation Director approving a landscape plan for the placement of trees and landscaping

materials within the landscape boulevards of the streets serving the subdivision, common area, and highway buffer.

30. A note shall be placed on the final plat indicating a waiver of the right to protest creation of a park maintenance district. This district shall only be activated in the event that the property owners' association defaults on their park and open space amenity conditions. The taxes levied within the maintenance district shall be determined by the Parks and Recreation Department with approvals by the Kalispell City Council.
31. A minimum of two-thirds of the necessary infrastructure for the subdivision shall be completed prior to final plat submittal.
32. All utilities shall be installed underground.
33. All areas disturbed during development shall be re-vegetated with a weed-free mix immediately after development.
34. A 310 permit shall be obtained from the Montana Department of Natural Resources and Conservation – Conservation District Bureau, for any disturbances/and or improvements adjacent the Stillwater River.
35. An approval from the Army Corps of Engineers shall be obtained for work adjacent the Stillwater River.
36. The developer shall work with Eagle Transit to establish bus stop location(s) within the development. Bus stop location(s) shall be improved in accordance with Eagle Transit's requirements, which may include a bus shelter. This condition is waived if Eagle Transit provides a letter in writing that it will not serve the development.
37. Any water rights associated with the property shall be transferred to the City of Kalispell. The water rights shall be allocated proportionally for each phase of the development prior to final plat.