



**CITY OF TONTITOWN PLANNING OFFICE**

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Meeting: **March 26, 2019**  
Project: **Morsani Acres**  
Planner: Courtney McNair

**AGENDA ITEM**

**C**

- i. Planned Unit Development (PUD) REQUEST**
- ii. PRELIMINARY SUBDIVISION PLAT REQUEST**
- iii. WAIVER REQUEST**

Morsani Road  
West of 1255 Morsani  
Parcel # 830-37733-004, 830-37733-002

**PUD Request**

**SUMMARY:** Request to zone two parcels of land that are approximately 16.70 acres in size with existing R3 zoning to a Planned Unit Development with approximately 4.31/units per acre. Single Family Dwellings.

**CURRENT ZONING:** R3-Residential-minimum lot size of 9600 SF.

**REQUESTED ZONING:** PUD -This PUD request is for 70 single family residential lots and two detention/park lots on 16.70 acres. The lots range in size from 7048 SF to 9469 SF for the single-family lots, and approximately ½ acre each for the detention/park lots.

**FUTURE LAND USE CATEGORY:** RC-T -Residential Transition Commercial

**CITY WARD:** 3 – Don Doudna and Tommy Granata

**INFRASTRUCTURE SERVICE AREAS** (not a guarantee of service availability):

- Water:** Tontitown Water
- Electric:** Ozarks Electric
- Sewer/Septic:** Tontitown Sewer
- Phone:** AT&T
- Natural Gas:** Black Hills Energy
- Cable:** Cox Communications

**PROJECT SYNOPSIS:**

This property is owned by Michael Bader. He is also the applicant. The property is located within the City Limits of Tontitown. It takes access from Morsani Road and will be extending a portion of Fletcher Road along the south side of the property.

The applicant is requesting this PUD in order to allow a slightly smaller lot size in an area identified by the City of Tontitown as Residential Transition Commercial on the Future Land Use Map. This category anticipates densities from 6-12 units per acre. The applicant is asking for 4.3 units per acre with this development.

The applicant is also utilizing detention pond space for recreation/park areas for the community. The spaces will include a basketball court (half), soccer goals, benches, and landscaping.

Please see the applicant's letter (attached) for additional information.

**FUTURE LAND USE PLAN:**

The Future Land Use Category shown in this area is for the Residential Transition Commercial (RC-T). From the Vision Plan Document adopted by the City Council in November 2018:

***RESIDENTIAL TRANSITION COMMERCIAL (RC-T)***

*Residential Transition areas plan for moderate-density residential development serving as a transition between commercial/mixed use and residential low-density land uses. Housing types are varied, single-family, duplexes, townhomes, and lower density apartment buildings. Some neighborhood-scale commercial uses may be included where appropriate access is available.*

*Six-twelve dwelling units/acre.*

**STAFF ANALYSIS:** This project is in line with the Future Land Use Map. This is an area that the City designated as having a slightly higher density residential to provide a buffer from the higher impact commercial that will develop along Henri de Tonti Blvd. The applicant is requesting less density than was anticipated in this category.

**APPROVAL CRITERIA:**

***153.087 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT.***

*(A) General description. It is the intent of this section to encourage development with superior living environments brought about through unified development, and to provide for the application of design ingenuity in such developments, while protecting existing and future surrounding areas in achieving the goals of the comprehensive plan for development of the city. The PUD provisions herein established, are intended to provide for greater flexibility in the design of buildings, yards, courts, circulation and open space than would otherwise be possible through the strict application of other district regulations, and to produce:*

- (1) A maximum choice in the type of environment and living units available to the public;*
- (2) Open space and recreation areas;*
- (3) A pattern of development which preserves natural features, prevents soil erosion, and protects water quality;*
- (4) A creative approach to the use of land and related physical development;*
- (5) An efficient use of land resulting in smaller networks of utilities and streets, and thereby lowering costs; and*
- (6) An environment of stable character in harmony with surrounding development.*

*(B) The PUD regulations are designed to provide for small- and large-scale developments incorporating a single type or a variety of residential, commercial, and related uses that are planned and developed as a unit. Such development may consist of individual lots or it may have common building sites. Private or public common land and open space should be an essential and major element of the plan that is related to and affects the long-term value of the homes and other development. A planned unit shall be a separate entity with a distinct character and be in harmony with surrounding development.*

**(C) Standards of development.**

(1) *Ownership control.* The land in a planned unit development district (PUD) shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the project can be successfully completed. **The applicant is a well-established home builder.**

(2) *Minimum district area.* The minimum area for a PUD district shall be two acres. In calculating the minimum area for a PUD district, the measurements shall include the area of all dedicated streets entirely within the boundary of the proposed PUD, and one-half of the area of all boundary or perimeter streets. **The property exceeds the minimum requirement.**

(3) *Uses permitted.* In order to increase creativity and flexibility in the development of areas suitable for a planned unit development, there are no specifically prescribed uses that are permitted within the boundaries of a planned unit development. The developer shall be responsible for preparation of a list of permitted uses within the specific planned unit development requested. The development list shall take into account the nature and purpose of the PUD area, and such uses and locations shall be appropriate in order to protect and be in harmony with surrounding development. **The applicant is proposing single-family residential uses and park/detention uses only. The area surrounding is mostly residential and agricultural in nature. Adding additional single-family housing in this area will be in harmony with surrounding development.**

(4) *At the time of the pre-application plan and conference, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PUD district. At the time of zoning application and consideration of the preliminary plat, a specific written list of uses to be "permitted by right" shall be submitted for review by the Planning Commission. If approved by the Planning Commission and City Council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy. The applicant is proposing single-family residential uses and park/detention uses only.*

(5) *In addition to the above permitted uses that are established by right, certain other uses may be prescribed by the developer in accordance with the restrictions included herein and said uses are designated as conditional uses. These uses more intensely dominate the area in which they are located than do other uses which might be permitted in the PUD district and, as such, they require special considerations and restrictions. If the developer and/or Planning Commission agree that certain conditional uses should be included within the PUD district, the applicant shall precisely indicate the specific use, its location, area to be included, maximum building square footage, and such other information as required by the Planning Commission to properly and comprehensively evaluate the nature and impact of such conditional uses. When such conditional uses are approved at the time of rezoning, they shall not be subsequently changed to any other use until and unless they are changed to another use that is permitted by right, or the new proposed use if not permitted by right in a PUD district, is resubmitted for rezoning approval. No additional uses are proposed.*

(6) *Parking and off-street loading.* All uses established with a planned unit development district shall comply with the off-street parking and loading requirements as established in the city's zoning regulations. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located, or upon adjacent property which is under the control of a property owners' association, to which said lot is an automatic participant. In no case, however, shall the cumulative requirements of all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the city. **Each residence will have adequate off street parking.**

(7) *Perimeter requirements.* In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the Planning Commission shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties. **Setbacks are proposed to be 20-feet from the rear of the lots. (Front are also 20-feet, and side are 5').**

(8) *Residential density standards. The maximum number of dwelling units permitted within a PUD district is dependent upon both the type and number of each type of residential units intended to be included in the PUD district. Densities within certain areas of the PUD may be beyond the overall limits through a transfer of density. However, overall project densities shall not be exceeded in accordance with the following schedule:*

(a) *Eight dwelling units per net residential acre for single-family attached and detached houses and duplexes. **The applicant is proposing 4.3 units per acre.***

(b) *Fifteen dwelling units per net residential acre for triplexes, fourplexes, and row or terrace housing.*

(c) *Eighteen dwelling units per net residential acre for two story, and 27 units per net residential acre for three-story apartments.*

(d) *Forty dwelling units per net residential acre for high-rise (four stories or more) apartments.*

(e) *For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-ways, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature.*

(f) *Common open space that is owned and maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one property owners' association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.*

(9) *Open space requirements. Common open space constitutes an essential ingredient in a planned unit development and is one of the most basic and important design elements. Open space should be distributed more or less equitably throughout the PUD district in relationship to the dwelling units and other use areas that are intended to be served by the common open space. Adequate guarantees must be provided that the common open space areas as contained in the plan for the PUD district are preserved and maintained for those purposes only. A minimum of 20% of the total project area shall be devoted to lawn and/or green space, exclusive of paved surfaces. A property owners' association shall be required, if other arrangements satisfactory to the Planning Commission have not been made, for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the articles of incorporation and bylaws of the property owners' association shall be reviewed and approved by the Planning Commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas. **The applicant is providing 25% open space through detention basins, front setbacks, and greenspace along sidewalks. A POA is proposed, and draft covenants have been provided (see attached).***

**ADDITIONAL INFORMATION ADDRESSED AT ANY REZONING REQUEST:**

*Not all of the criteria must be given equal consideration by the Planning Commission or City Council in reaching a decision. The criteria to be considered shall include but not be limited to the following:*

(1) *Consistency of the proposal with the comprehensive plan.*

**STAFF ANALYSIS: The current Future Land Use Plan shows this area as Residential Transition Commercial. The proposal meets this Land Use Category.**

(2) *Consistency of the proposal with the purpose of these regulations.*

*“The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas of the city; for protection of property from blight and undue depreciation; for efficiency and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design*

and arrangement; and for adequate public utilities and facilities.”

**STAFF ANALYSIS:** This area is primarily residential, and the applicant is proposing single family residential for this property. There are adequate connections for water and sewer. There has been some concern voiced over drainage in this area due to the last project this applicant completed that is located to the south of the currently proposed project. City staff and the City Engineer had inspected the drainage concern, and the developer worked to correct the drainage in a temporary manner. This new project addresses that temporary solution with the proposed drainage plan. It was staff’s understanding that the temporary fix adequately addressed the drainage concerns, as no additional complaints had been made to the city until the time of this project application.

Additionally, there has been concern voiced over Morsani Road. As it is currently zoned, approx. 50-55 residences could be placed on this property with no additional zoning review. The applicant is proposing 70 residences. This is not a significant increase, and off-site improvements to Morsani Road are not warranted. The applicant is responsible for improving Morsani Road along the frontage of this property. Staff acknowledges that Morsani Road is a narrow road at this time. There is also very little Right-of-Way (ROW) currently dedicated to the City for any road improvements. As this area develops, more ROW will be dedicated, and additional road improvements will be made.

*(3) Compatibility of the proposal with the zoning, uses and character of the surrounding area.*

**STAFF ANALYSIS:** The requested use is for Industrial zoning; surrounding properties are zoned for Commercial, residential, and agricultural uses.

North-zoned R3

East-zoned R3

South-zone R3

West-zoned R3

The surrounding uses appear to be mostly large lot residential/agricultural, and residential subdivision. The City has limited zoning categories, and R3 is the highest density single-family category available without requesting a PUD. This area will most likely continue to develop as residential lots, and the applicant is proposing single family residential lots.

*(4) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment.*

**STAFF ANALYSIS:** This property could be suitable for R3-residential uses. The applicant is trying to develop according to the Future Land Use plan that was approved by the City of Tontitown.

*(5) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual impairment, odor, noise, light, vibration, hours of use/operation, and any restriction to the normal and customary use of the affected property.*

**STAFF ANALYSIS:** This proposed rezoning should not detrimentally affect nearby property. Odor, noise, and lighting are not typical concerns with this type of development. As discussed earlier, the traffic impact of 55 lots vs 70 will be minimal. There is concern from adjacent neighbors that allowing slightly smaller lots will decrease property values. This is a very subjective issue.

Staff does not feel that having an adjacent development with slightly smaller lots will be detrimental to property values. Especially as this development will eventually be completely separated by Fletcher Road. As it will be, if developed, the Fletcher Road ROW that is required to be dedicated will provide a buffer/separation to the R3 subdivision adjacent to the south.

(6) *Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and*

**STAFF ANALYSIS:** This property has never developed. It was zoned R3 when the applicant purchased the property.

(7) *Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police, and emergency medical services.*

**STAFF ANALYSIS:** This impact is expected to be minimal to utilities, streets, drainage, parks, open space, fire, police, and emergency services. There are adequate water and sewer connections available. Drainage is being reviewed by the City Engineer for compliance. The Fire Marshal has reviewed the plans and made comments which have been addressed. Streets were discussed above. The Police Chief had no concerns for this proposal.

**TECHNICAL INFORMATION:**

Technical information is addressed below in this report with the Preliminary Subdivision Plat stage of this development request.

**NEIGHBOR COMMENTS:** All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. Staff has received eight "opposed" written comments (two from one address) regarding this project. Staff also received several phone calls with requests for additional information, or to voice opposition for this project. Only two of the neighbors who called did not also submit written comments, and their concerns mirror those that were submitted in writing.

Staff has tried to summarize and address these concerns:

1. Property values will be decreased. **-This is subjective, and discussed above.**
2. Morsani Road is not adequate. **-The developer is required to upgrade the portion of Morsani Road that this development has frontage on. It does not warrant off site improvements.**
3. Drainage concerns. **-Staff was aware of the drainage issue north of the Hidden Valley**

**Subdivision. Water was backing up onto two properties (not within the subdivision). Staff had the City Engineer go to the site and make recommendations. The applicant also had his Engineer review the problem. As a result, a temporary ditch was added until the drainage could be addressed with the new development. Staff had received no additional complaints regarding the drainage after the ditch was added until this project was proposed.**

4. The proposal is not compatible/does not want change/want only homes of the same size. - **While the proposed project is slightly higher density, and the square footage of the homes is smaller than what is directly adjacent, staff does not feel this project cannot be compatible. The developer has provided some examples of the types of homes proposed in this development. There are many examples of developments with areas of smaller housing and larger housing that have been successful.**

**Smaller lots are not synonymous with lower property values.**

Additionally, one neighbor also had concerns regarding Fire Code and Access Roads, and one further down Basinger Road, was concerned about their water pressure decreasing.

**The Fire Marshal has reviewed the plans and consulted with other local fire marshals for their opinions as well. As the “authority having jurisdiction”, he can make professional assessment of developments within his jurisdiction, and has no concerns regarding this proposal.**

**I have attached an email regarding water pressure from the applicant’s engineer. They are planning to loop the water line within this development. Looped lines are generally a better situation for water systems. Additionally, he has addressed the possibility of upgrading waterlines if necessary, to meet required fire flow.**

**Staff understands the concerns of the neighbors, especially when it is a change from the normal. This change is less impactful than what the City of Tontitown expected for the area, and will act as transition for future development.**

**STAFF RECOMMENDATION:** Based on the Future Land Use Map and the availability of connections for utilities, as well as the requirements for upgrades to Morsani Road, and the addition of a portion of Fletcher Road, staff recommends approval of the Morsani Acres Planned Unit Development with conditions.

**CONDITIONS RECOMMENDED FOR APPROVAL:**

1. This PUD zoning must proceed to the City Council for approval.
2. This project must proceed through the Preliminary Subdivision Plat process, and address all technical information. Any approvals granted related to the Preliminary Subdivision Plat will be contingent on City Council approval of the PUD zoning.
3. This project shall develop as is stated in the applicant’s letter and presented in the plans. No additional uses/densities are allowed without an additional PUD request.

**Preliminary Subdivision Plat Request-** the PUD zoning request must be approved prior to consideration of this LSD request.

**SUMMARY:** Preliminary Subdivision Plat request in order to begin construction of Morsani Acres Subdivision with 70 residential lots and two detention/park lots on 16.7 acres.

**CURRENT ZONING:** **PUD**

**CITY WARD:** 3 – Don Doudna and Tommy Granata

**FLOODPLAIN:** No

**MS4 AREA:** No

**TECHNICAL INFORMATION:**

**Utilities:**

**Water:** Tontitown Water, the applicant plans to tap into the existing 6-inch line on Bausinger Road to service this property, and then loop to the existing 4-inch line on Morsani Road. Interior water system is proposed to be 8-inch line. All offsite easements are the applicant's responsibility.

**Electric:** Ozarks Electric -Initially it was thought that the applicant may have to relocate all of the utility poles along Morsani Road, and was asking for a waiver from a portion of the required widening at Morsani Road. However, we have received information that the applicant can just relocate the two poles on this property and therefore, they have withdrawn the request for a waiver for Morsani Road. The electric poles located on the property will be relocated to the utility easement.

**Sewer/Septic:** Sewer-the applicant plans to connect to existing sewer to the south. All offsite easements are the applicant's responsibility.

**Phone:** AT&T No concerns were submitted.

**Natural Gas:** Black Hills Energy No concerns were submitted.

**Cable:** Cox Communications No concerns were submitted.

It is the applicant's responsibility to coordinate any additional utility easements or connections as needed to service their property.

**Roads/Parking/Sidewalks:**

This property has access on to Morsani Road, and plans two connections. The applicant is required to improve half of Morsani Road as is standard with subdivision requirements. Sidewalks are shown and must be constructed to provide connectivity. Additionally, the applicant must dedicate Right-of Way (ROW) for Fletcher Road, and construct a portion of this road. The applicant is requesting a waiver from constructing the full Fletcher Road, and staff is supportive of this request. At this time, the City is working on the east Fletcher Road connection. Fletcher Road is a very important connection for the City, but we are unsure when funding will be available for the western portion. As such, we do not have currently engineered plans, and the road may have to shift some to make the best connection. If the applicant constructs the portion of Fletcher shown on the plans, this leaves the City some leeway at the time the remainder of this side of Fletcher is designed. -SEE WAIVER

FLETCHER ROAD.

Staff also believes it will be less of a nuisance to have shorter stub outs for the property to the south.



Two entrances are also proposed to connect to Fletcher Road.

There was a concern voiced about the Fire Code access for this development. The Fire Marshal has reviewed the plans and consulted with other local fire marshals for their opinions as well. As the “authority having jurisdiction”, he can make professional assessment of developments within his jurisdiction, and has no concerns regarding this proposal. He did require additional hydrants, and those are shown on the plans.

The interior streets are proposed to be 26-feet wide with no parking on the street. It is the applicant’s responsibility to provide the “no parking” signage. This street section is wider than the smallest street section allowed by the City (20-feet with bump outs at hydrants to 26-feet). The applicant did not want the street to feel overly constrained. Sidewalks are shown on both sides of the streets.

**Stormwater Pollution Prevention Plan (SWPPP):**

The applicant has provided a grading a drainage plan. A SWPPP must be completed and posted on site prior to construction.

**Fire:**

As stated above, the Fire Marshal has reviewed these plans. Hydrants are required and must be adequately spaced. The Fire Marshal has no additional concerns at this time.

**Police:**

No concerns were submitted.

**Drainage:**

There are two detention areas shown for this site. The applicant’s engineer submitted a drainage report for review. The City Engineer reviewed and made comments. The City Engineer is reviewing resubmitted information and will provide additional comments as necessary.

All remaining comments from the City Engineer must be addressed prior to Construction Plan approval.

There was some concern voiced about drainage. The engineer for this project, and the City Engineer are acutely aware of the previous drainage problem. The engineer for this project has proposed a system that should address the previous drainage concern, as well as provide adequate drainage for the proposed development.

**Additional Planning Information:**

Any signage requested shall be permitted separately.

As this is a PUD, the applicant has provided park areas to be located with the detention areas. They are providing a basketball court (half), soccer goals, and park benches along with landscaping to benefit the community. Sidewalks are proposed to provide access internally to these areas.

Lot sizes in this development meet PUD requirements and the Future Land Use Plan for this area. They range from 7048 SF to 9469 SF with the larger lots along Morsani Road and Fletcher Road.

**STAFF RECOMMENDATION:** There are a few technical details that remain to be addressed at the Construction Plan phase of plan review, but the overall design should not change significantly. Any significant changes as a result of further information will be required to come back to this Board.

Therefore, staff recommends approval of Morsani Acres Preliminary Plat with conditions.

**CONDITIONS RECOMMENDED FOR APPROVAL:**

1. It is the applicant's responsibility to coordinate any additional utility easements or connections as needed to service their property.
  2. The SWPPP shall be completed and posted on site prior to construction.
  3. Correct all remaining items on the "Plat Requirement Worksheet" prior to Construction Plan approval. Planning Staff will provide a copy of the remaining requirements to the engineer for the project.
  4. Water and Sewer Systems plans shall be approved prior to construction.
  5. If any signage is desired, it must be permitted separately and shall comply with all current sign codes.
  6. "No Parking" signs / fire lane striping shall be placed per the Fire Marshal.
  7. All interior drives shall meet the required compaction rating to support emergency vehicles.
  8. Correct all comments from the City Engineer prior to Construction Plan approval.
  9. The Landscaping and Park amenities shall be installed as proposed.
  10. The applicant shall apply for all required permits prior to construction.
    - a. Pre-Construction Meeting must be held and plans approved.
    - b. SWPPP BMPs must be inspected and approved.
  11. Once all Engineering Statements are received by the City, any additional charges will be sent to the developer in an invoice to be paid prior to the issuance of a Certificate of Occupancy.
  12. Final Subdivision Plat plans, fees, inspections, and approval are required prior to the acceptance of this Subdivision by the City.
  13. Building permits must be submitted and approved prior to individual homes being constructed.
  14. Any approvals granted related to the Preliminary Plat will be contingent on City Council approval of the PUD zoning.
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**Waiver Requests-**

**"152.026 WAIVERS.**

(A) *General.*

(1) When, by the strict interpretation of these regulations, an applicant incurs undue restrictions on the physical property to be subdivided, a waiver for such requirements may be granted by the Planning Commission.

(2) Under no circumstance should a waiver be granted because of a personal hardship or for personal or emotional reasons. Waivers shall not be granted based strictly on financial hardship.

(3) A waiver is determined by the strict interpretation and enforcement of the rules and regulations upon a given piece of property to be subdivided.

(B) *Procedures.*

(1) *No waiver shall be granted except upon written petition by the applicant when the application is filed. The petition shall state fully the grounds for the waiver and all the facts upon which the petition is made.*

(2) *In granting the waiver, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable in the public interest.*

(3) *In considering the petition for a waiver, the Planning Commission shall take into account the nature of the proposed use of land involved, existing uses of land in the area, proximity to*

public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity.

(4) The findings of the Planning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning Commission meetings at which such waiver is granted. Waivers may be granted only when in harmony with the general purpose and intent of these regulations.

(5) No waiver shall be granted unless the Planning Commission finds all of the following:

(a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land.

(b) That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(c) That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.

(d) That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.”

### **WAIVER-FLETCHER ROAD**

The applicant is requesting a waiver for a portion of the Fletcher Road construction. They are requesting to shorten the eastern and western stub outs, and improve 26' feet of the Road.

*STAFF ANALYSIS: Staff finds that there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land. Due to a lack of ROW for the remainder portion of Fletcher Road, and the adjustment that will need to be made to align Fletcher Road, staff finds this to be a special circumstance.*

*As staff mentioned above, allowing this waiver affords the City more flexibility when the final design of west Fletcher Road is to be addressed.*

*Granting this waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area, and will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.*

*Staff feels that by not extending the stub outs, it will actually be less impactful to the adjacent residences on the south side of this property.*

**STAFF RECOMMENDATION:** Staff recommends approval of the waiver for a portion of the Fletcher Road construction to shorten the eastern and western stub outs, and improve 26' feet of the Road.