



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **January 26, 2021**
Project: **Hickory Meadows**
Planner: Anthony Apple

AGENDA ITEM

C

Amendment to Ordinance No. 2021-01-915

Address: 865 Klenc Road

Parcel #: 830-37759-000

SUMMARY: Request to amend Ordinance No. 2021-01-915 “An Ordinance Rezoning Approximately 80 Acres of Real Property Located at 865 Klenc Road, in the City Limits of Tontitown Arkansas from R-3 - Single Family Residential to Planned Unit Development (PUD)”. The request is to reduce the right-of-way width from 50 feet to 45 feet with a 27-foot roadway, 5-foot sidewalks, and a reduction from 5-foot greenspaces to 4-foot greenspaces.

CURRENT ZONING: PUD- Planned Unit Development for a single-family residential subdivision with a density of 4.95 units/acre

CITY WARD: 3- Don Doudna & Tim Burress

FLOODPLAIN: No

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

Water: Tontitown Water

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer (connection to lift station)

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

School District: Springdale

PROJECT SYNOPSIS:

The owner of this property is Solomon Properties, and the applicant is Ron Homeyer of Civil Engineering, Inc. The property is located on Klenc Road, and will tie into the South Pointe Phase 3, 4, & 5 project that was recently approved, with the extension of Wildcat Creek Blvd. along the southern property line.

This project was approved by ordinance on January 5, 2021 with the conditions set by Planning Commission at the December 29, 2020 meeting. A waiver requesting a 45-ft right-of-way with 4-ft sidewalks and 4-ft green spaces was denied at the December 29, 2020 Planning Commission meeting. Staff made a recommendation as an offer in compromise of 47-ft right-of-way with 5-ft sidewalks and 5-ft green spaces. This offer was not agreed to by the developer at that time. The Developer has amended the original request and is now asking for a 45-ft right-of-way with a 5-ft sidewalk to be placed at the back of the right-of-way, with a 4-ft greenspace between the back of curb and sidewalk.

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.

WAIVER:

Local Streets interior to the subdivision to have 45 foot ROW, five (5) foot wide sidewalks, and four (4) foot wide green spaces on each side of the street.

This request is a two-part request:

1. Reduction of the interior street ROWs from 50 feet to 45 feet.
2. Reduction of the interior street greenspaces from five (5) feet to four (4) feet.

Section 152.026 Waivers (B)

(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.*

Staff's Response: This development is a PUD and has lot sizes slightly smaller than similar R-3 zoned developments which require a 50' ROW for local streets with a five (5) foot wide sidewalk and five (5) foot wide greenspace. As part of the approved PUD, street trees were permitted to be placed in front lawns rather than in the greenspace. The fact that this is an approved PUD development with slightly higher density than typical residential subdivisions within our city, means that strict application of this provision could deprive future homeowners of a proportionately sized front lawn space.

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

Staff's Response: This development is a PUD and has smaller lots than similar residential developments zoned R-3. The reduction of ROW will allow homeowners to have a proportionately sized front lawn space compared to a traditional R-3 zoned front lawn.

(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.

Staff's Response: This development is a PUD. The approved lot sizes are slightly smaller than similar R-3 zoned developments and has reduced setbacks from 30-ft to 25-ft. The requested reduction to four (4) foot greenspaces from five (5) foot greenspaces, reduces the space between pedestrian and vehicular traffic. However, the sidewalks will remain five (5) feet and will accommodate ADA requirements. Staff does not feel that the one-foot reduction in greenspace will be detrimental to the public health, safety and welfare in this situation as the road is classified as a local street section.

(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.

Staff's Response: This is a PUD. Pursuant to Chapter 153.087, the PUD provisions 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." This waiver is unlikely to prevent the orderly subdivision of other land in the area.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of this Waiver to reduce the interior Local Streets ROW from 50-ft to 45-ft and reduce the greenspace from five (5) feet to four (4) feet.

The 5-ft sidewalk will need to be placed at the edge of the ROW. This will allow the sidewalks to be ADA compliant and give more of a buffer for pedestrians from vehicular traffic.