



## CITY OF TONTITOWN PLANNING OFFICE

201 E. Henri de Tonti Blvd.  
479-361-2700  
planning@tontitownar.gov

Meeting: **December 30, 2021**  
Project: **Palecero at Tontitown**  
Planner: Courtney McNair, Garver

### PLANNING COMMISSION AGENDA ITEM

# 1

## WAIVER REQUESTS

Located at 380 Klenc Road

Parcel # 830-37667-006, 830-37667-005, 830-37667-004

**SUMMARY:** Palecero at Tontitown Large Scale Development is requesting Preliminary Large Scale Development approval to construct an “Active Lifestyle Community” for adults 55+ in age.

**CURRENT ZONING:** C-2 General Commercial, C-1 Light Commercial, Conditional Use Permit was approved by Planning Commission and City Council

**CITY WARD:** 3- Penny Baskin, Tim Burress

**FLOODPLAIN:** No

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

**Water:** Tontitown Water, existing 8” line

**Electric:** Ozarks Electric

**Sewer/Septic:** Tontitown Sewer

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

**School District:** Springdale

### PROJECT SYNOPSIS:

Palecero at Tontitown Large Scale Development is requesting Preliminary Large Scale Development approval to construct an “Active Lifestyle Community” for adults 55+ in age. The plans show five (5) duplex units, and twenty-one (21) quadplex units, for a total of 94 residential units, one clubhouse that is 2,560 SF, and an activity building that is 1,250 SF.

The applicant is requesting three waivers:

- Waiver from 152.144, (D) Connectivity- to allow a gated community
- Waiver from 152.144, (E) Street stubs- to remove the requirement to construct public road stub connections to the North, South, or East.
- Waiver from 90.400.3, Intersections- to allow for an increase in slope from 4% to 5% along driveways within 100’ of the intersection.

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 #1:**

**Waiver from Connectivity standards to allow for a gated community:**

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: At Conditional Use Permit, the applicant presented a plan for a community for those over 55 in age. The intent is for this to be a closed community. This concept was approved by the Planning Commission and City Council. Staff finds this to be a special circumstance related to this project.**

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

**Staff's Response: The waiver is necessary for the preservation of a substantial property right of the applicant, based on the implication that the Planning Commission and City Council were in agreement with the closed community concept.**

(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:** The requested waiver to have a gated community should not be detrimental to public health, safety, or welfare. Measures are required to be put into place to make sure that this development can be reached in an emergency.

*(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 waiver would potentially close off cross-access that is a benefit to the city. However, this is a very specific proposal, and staff is not in favor of routinely adding gated communities. Only for very specific concepts would this be supported by staff as in this case.

**STAFF RECOMMENDATION:**

Based on this very specific development proposal, and previous support from the Planning Commission and City Council with the Conditional Use Permit approval, staff recommends approval of this waiver request to allow a gated community.

## **WAIVER #2:**

### **Waiver from Connectivity standards to remove the required street stub outs to the North, East and South:**

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: As with the previous waiver, the intent of this proposal is to be a closed community. This concept was approved by the Planning Commission and City Council. Staff finds this to be a special circumstance related to this project.**

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

**Staff's Response: The waiver is necessary for the preservation of a substantial property right of the applicant, based on the implication that the Planning Commission and City Council were in agreement with the closed community concept.**

(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: The requested waiver to removed connectivity requirements should not be detrimental to public health, safety, or welfare.**

(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 waiver would close off cross-access that is a benefit to the city. Potentially cross-access to the east would probably be used in the future. However, this is a very specific proposal, and staff is not in favor of routinely reducing connectivity requirements. Only for very specific concepts would this be supported by staff as in this case.**

### **STAFF RECOMMENDATION:**

Based on this very specific development proposal, and previous support from the Planning Commission and City Council with the Conditional Use Permit approval, staff recommends approval of this waiver request to remove required street stub outs to the north, east and south.

### **WAIVER #3:**

#### **Waiver to allow for an increase in slope from 4% to 5% along driveways within 100' of the intersection.**

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:** The buildings adjacent to the detention pond are required to have a finish floor elevation (FFE) two feet (2') above the 100-year water surface elevation (WSE) of the pond. The pond is adjacent to Klenc Road and is slightly built up from the roadway (the top of the pond is near elevation 1289 and the elevation of the roadway is closer to 1285). Since some of the buildings are fairly close to the intersection of Klenc and the private driveways, the driveways have to ramp up roughly five feet over a relatively short distance so that the FFE requirements can be met.

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

**Staff's Response:** The pond is in the correct location because the site drains from east to west, so it makes sense for the pond to be on the west edge of the site (adjacent to Klenc Road). The applicant may be able to lower the 100-year WSE of the pond by making the pond larger, but the current configuration is a more efficient use of the site.

- (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:** The increase in slope from 4% to 5% should not have a detrimental impact on public health, safety, or welfare.

- (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.

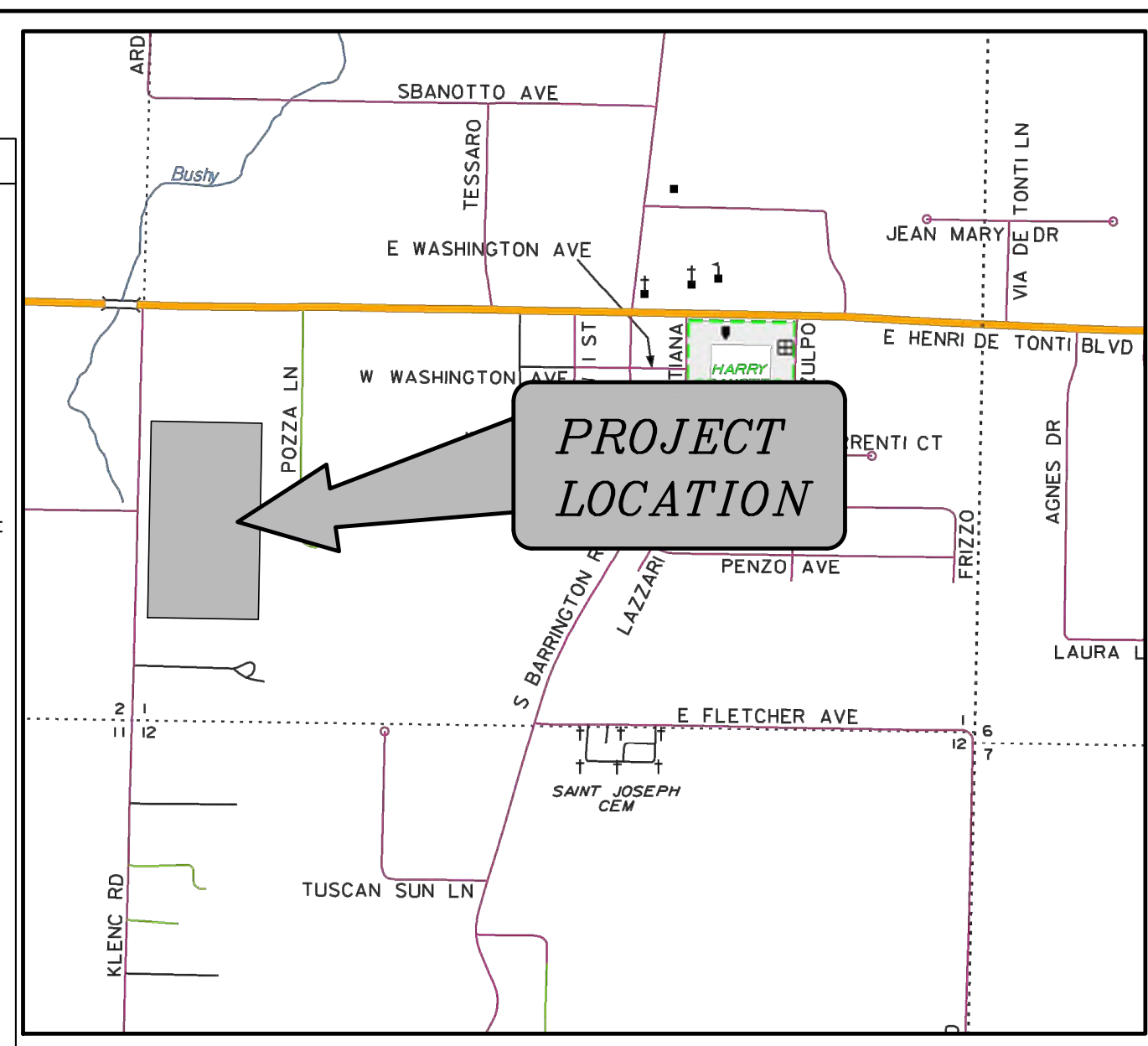
**Staff's Response:** The granting of this waiver will not prevent orderly development of adjacent lands.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of this waiver request to allow an increase in slope from 4% to 5% along driveways within 100' of the intersection.



LEGEND	
○	SET IRON PIN
●	IRON PIN FOUND
+	MAG NAIL FOUND
—	C. PROPERTY LINE
---	SAW-CUT LINE
---	EX. EASEMENT LINE
---	EX. BUILDING SETBACK LINE
---	EX. ROAD CENTERLINE
---	EX. CURB & GUTTER
---	EX. CONTOUR
---	PROPOSED CONTOUR
---	EX. OVERHEAD POWER LINE
---	EX. GAS LINE
---	EX. UNDERGROUND TELEPHONE LINE
---	EX. SEWER LINE
---	EX. STORM DRAIN LINE
---	EX. WATER LINE
---	EX. FIBER OPTIC LINE
---	EX. WATER METER
---	EX. FIRE HYDRANT
---	EX. SEWER MANHOLE
---	EX. POWER POLE
---	EX. WATER VALVE
---	EX. LIGHT POLE
---	EX. SIGN
---	EX. WATER METER
---	EX. TRAFFIC POLE
---	EX. GAS MANHOLE
---	EX. ELECTRIC MANHOLE
---	EX. TELEPHONE MANHOLE
---	EX. TREES
---	EX. SEWER VALVE
---	EX. WATER MANHOLE
---	EX. FIBER OPTIC VAULT
---	EX. TELEPHONE BOX
---	EX. MAILBOX
---	EX. GAS METER
---	EX. GAS VALVE
---	PROPOSED FENCE
---	PROPOSED EASEMENT LINE
---	PROPOSED SIDEWALK
---	PROPOSED GAS LINE
---	PROPOSED ELECTRIC LINE
---	PROPOSED WATERLINE
---	PROPOSED ADA RAMP
---	PROPOSED STORM BOX & PIPE
---	PROPOSED SEWER MANHOLE & PIPE



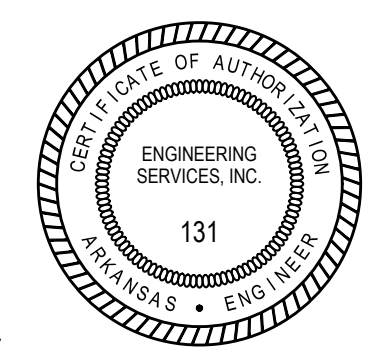
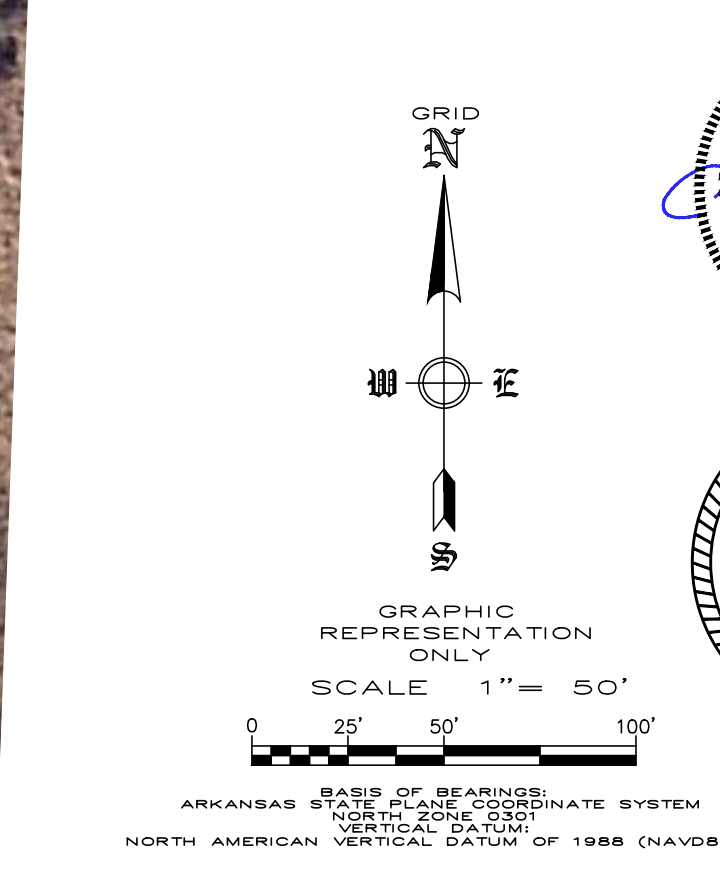
**OWNER/DEVELOPER:** PALECERA AT TONTITOWN, LLC  
PO BOX 10386  
FORT SMITH, AR 72917

**ENGINEER:** ENGINEERING SERVICES, INC.  
1207 S. OLD MISSOURI ROAD  
P.O. BOX 282  
SPRINGDALE, AR 72762

**CITY ZONING:** C-2

**PARCEL:** 830-37667-006, 830-37667-005, &  
830-37667-004

**LEGAL DESCRIPTION:** WARRANTY DEED: FILE# 2013704-106



Tract 1:  
A PART OF THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION ONE (1), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 80 ACRE TRACT; THENCE S03°44'22" W 1675.33 FEET ALONG THE WEST LINE OF SAID 80 ACRE TRACT TO THE TRUE POINT OF BEGINNING, SAID POINT BEING IN KLENC ROAD AND FROM WHICH A 1/2" REFERENCE IRON SET ON THE EAST RIGHT-OF-WAY LINE OF SAID ROAD BEARS S87°25'01" E 20.81 FEET, THENCE LEAVING THE WEST LINE OF SAID 80 ACRE TRACT, S87°25'01" E 715.00 FEET TO A SET 1/2" IRON REBAR; THENCE S03°44'22" W 304.68 FEET TO AN EXISTING IRON REBAR, THENCE N87°25'01" W 715.00 FEET TO AN EXISTING COTTON SPINDLE ON THE WEST LINE OF SAID 80 ACRE TRACT, SAID POINT BEING IN KLENC ROAD AND FROM WHICH AN EXISTING REFERENCE IRON ON THE EAST RIGHT-OF-WAY LINE OF SAID ROAD BEARS S87°25'01" E 23.67 FEET; THENCE N03°44'22" E 304.68 FEET ALONG THE WEST LINE OF SAID 80 ACRE TRACT TO THE POINT OF BEGINNING, CONTAINING 5.00 ACRES, MORE OR LESS, TONTITOWN, WASHINGTON COUNTY, ARKANSAS. TM ABOVE DESCRIBED 5.00 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF KLENC ROAD AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

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(1) CERTIFICATE OF PRELIMINARY SURVEY ACCURACY.

I, S. CRAIG DAVIS, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN.

DATE OF EXECUTION: 12/11/21

*Craig Davis*

REGISTERED LAND SURVEYOR

STATE OF ARKANSAS REGISTRATION NO. 1156

(2) CERTIFICATE OF PRELIMINARY ENGINEERING ACCURACY.

EACH SET OF STREET AND DRAINAGE PLANS MUST BE SUBMITTED IN ACCORDANCE WITH APPLICABLE STATE STATUTES AND ANY PLANS AND SPECIFICATIONS REQUIRED.

I, \_\_\_\_\_ HEREBY CERTIFY THAT THIS PLAN CORRECTLY REPRESENTS A PLAN MADE UNDER MY DIRECTION AND ENGINEERING REQUIREMENTS OF THE TONTITOWN SUBDIVISION REGULATIONS HAVE BEEN COMPLIED WITH.

DATE OF EXECUTION: \_\_\_\_\_

REGISTERED ENGINEER

STATE OF ARKANSAS REGISTRATION NO. \_\_\_\_\_

(3) CERTIFICATE OF PRELIMINARY PLAT APPROVAL

THIS PLAT HAS BEEN GIVEN PRELIMINARY PLAT APPROVAL ONLY AND HAS NOT BEEN APPROVED FOR RECORDING PURPOSES AS A PUBLIC RECORD. THIS CERTIFICATE SHALL EXPIRE ON \_\_\_\_\_ (DATE).

DATE OF EXECUTION: \_\_\_\_\_

SIGNED: \_\_\_\_\_

TONTITOWN PLANNING COMMISSION CHAIRMAN

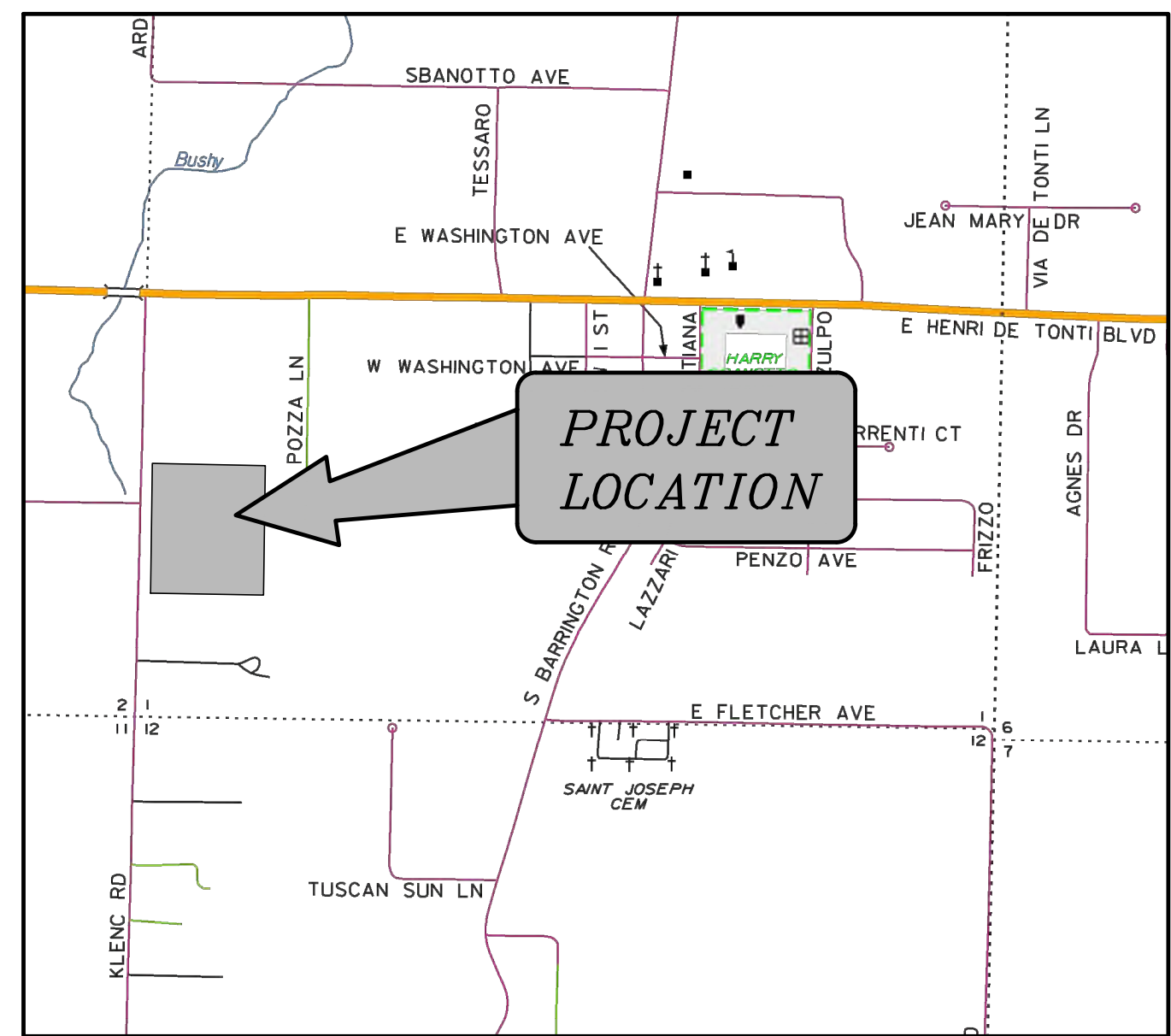


**EXISTING CONDITIONS  
PALECERO AT TONTITOWN  
TONTITOWN, ARKANSAS**

REVISION	DATE	DESCRIPTION

SCALE: 1"=50'  
DATE: Dec 20, 2021  
DRAWN BY: IMB  
W.O. #: 21926

**LARGE SCALE DEVELOPMENT  
 PALECERO AT TONTTOWN  
 TONTTOWN, ARKANSAS**



CERTIFICATE OF PRELIMINARY ENGINEERING ACCURACY. EACH SET OF STREET AND DRAINAGE PLANS MUST BE SUBMITTED IN ACCORDANCE WITH APPLICABLE STATE STATUTES AND ANY PLANS AND SPECIFICATIONS REQUIRED.

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DATE OF EXECUTION: \_\_\_\_\_ REGISTERED ENGINEER  
 STATE OF ARKANSAS REGISTRATION NO. \_\_\_\_\_

OWNER/DEVELOPER: PALECERO AT TONTTOWN, LLC  
 PO BOX 10386  
 FORT SMITH, AR 72917

ENGINEER: ENGINEERING SERVICES, INC.  
 1207 S. OLD MISSOURI ROAD  
 P.O. BOX 282  
 SPRINGDALE, AR 72762

CITY ZONING: C-2 & C-1  
 PROPOSED USE: ACTIVE LIFESTYLE COMMUNITY (5-2 UNIT & 21-4 UNIT)

PARCEL: 830-37667-006, 830-37667-005, & 830-37667-004

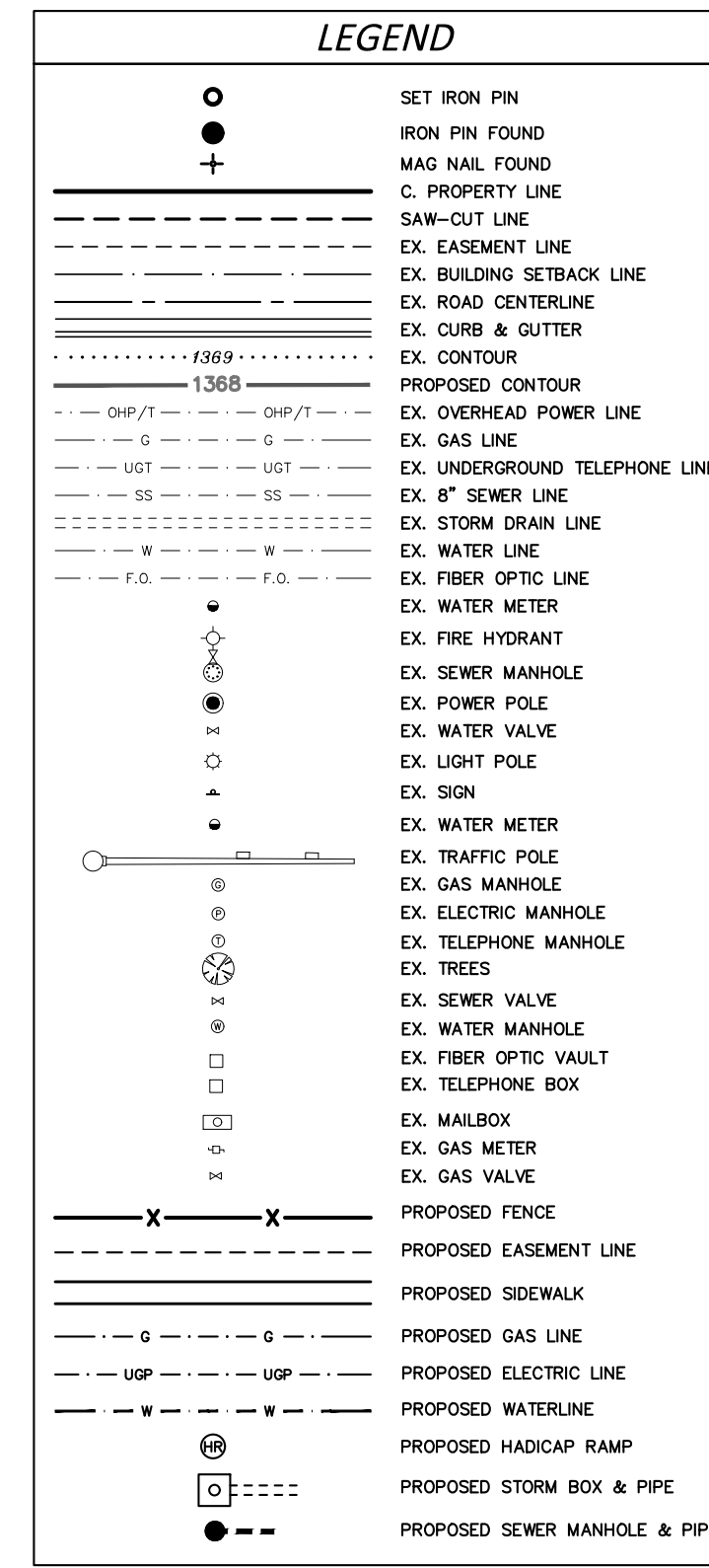
LEGAL DESCRIPTION: CORRECTION WARRANTY DEED; FILE#: 2021-46189

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SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, AND PROTECTIVE COVENANTS OF RECORD, IF ANY. SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES.



- NOTES:**
- ANY COST OF ADJUSTMENTS, RELOCATION OR DAMAGE OF EXISTING UTILITIES WILL BE THE RESPONSIBILITY OF THE OWNERS/DEVELOPERS.
  - ALL PROPOSED UTILITY WIRES, LINES, AND/OR CABLE UTILIZED BY ELECTRIC AND/OR TELECOMMUNICATIONS COMPANIES SHALL BE PLACED UNDERGROUND, EXCLUDING 12KV AND ABOVE.
  - OUTDOOR STORAGE, TRASH COLLECTION, AND LOADING AREAS MUST BE LANDSCAPED, SO THAT THEIR FUNCTIONS ARE FULLY CONTAINED AND OUT OF VIEW OF THE ADJACENT PROPERTY AND THE PUBLIC RIGHT-OF-WAY.
  - EXTERIOR GROUND-MOUNTED OR BUILDING-MOUNTED EQUIPMENT INCLUDING, BUT NOT LIMITED TO, MECHANICAL EQUIPMENT, UTILITIES AND BANKS OF METER SHALL BE SCREENED FROM PUBLIC VIEW WITH LANDSCAPING OR WITH AN ARCHITECTURAL TREATMENT COMPATIBLE WITH THE BUILDING ARCHITECTURE.
  - ALL ROOFTOP EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW WITH AN ARCHITECTURAL TREATMENT THAT IS COMPATIBLE WITH THE BUILDING ARCHITECTURE.
  - THE GLOBAL POSITIONING SYSTEM (GPS) AND CONVENTIONAL TERRESTRIAL SURVEYING EQUIPMENT PROVIDED THE RELATIVE POSITIONING FOR THE TOPOGRAPHIC, PLANIMETRIC AND BOUNDARY LOCATIONS SHOWN HEREON.
  - THE MAP PROJECTION IS REFERENCED TO THE HORIZONTAL CONTROL DATUM OF NAD83 (NORTH AMERICAN DATUM OF 1983), STATE PLANE COORDINATE SYSTEM, ARKANSAS NORTH ZONE (0301), THE BASIS OF BEARINGS FOR THIS PLAN ARE STATE PLANE GRID BEARINGS. THE VERTICAL DATUM IS REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88). TWO TEMPORARY BENCHMARKS UTILIZING THIS DATUM ARE SHOWN HEREON.
  - ALL NEW SIGNAGE REQUESTED WILL REQUIRE SEPARATE PERMIT.
  - MODIFIED CURB REQUIRED ON ALL DRIVES.
  - PRIOR TO CONSTRUCTION, A PRE-CONSTRUCTION MEETING WITH ALL FRANCHISE UTILITIES WILL BE REQUIRED.
  - THE DETENTION POND MUST BE SODDED TO THE 100 YEAR FLOOD POOL.
  - CONTRACTOR SHALL USE EXTREME CAUTION WHEN CONSTRUCTING ALONG KLENC ROAD TO OVERHEAD POWER LINES AND UTILITIES.
  - ALL PROPOSED PAVEMENT MARKING ON KLENC ROAD SHALL CONFORM TO MUTCD AND TO BE THERMOPLASTIC IN MATERIAL.
  - GARBAGE SERVICE SHALL BE CARRIED OUT VIA INDIVIDUAL CANS.
  - ALL FINISHED FLOOR ELEVATIONS MUST BE 12" MIN. ABOVE MAX. ADJACENT STREET GUTTER LINE.

**SETBACKS:** C-2 & C-1  
 FRONT SETBACK: 25'  
 STREET SIDE SETBACK: 25'  
 INTERIOR SIDE SETBACK: 30'  
 REAR SETBACK: 25'

**PARKING REQUIRED:**  
 3 SPACES FOR EACH TWO DWELLING UNITS FOR MULTI-FAMILY DWELLING  
 3X(94/2)=141 SPACES  
 1 SPACE PER 200 SQ. FT. OF NET FLOOR AREA FOR ASSEMBLY AREAS 1X(3,811SQFT/200)=19 SPACES

**PARKING PROVIDED:**  
 160 TOTAL REQUIRED PARKING  
 94 GARAGE SPACES  
 94 ALLOCATED DRIVEWAY PARKING  
 5 STRIPED PARKING (1 ADA SPACE)  
 193 TOTAL PARKING

BUILDING TYPE	TOTAL UNITS
1 BEDROOM UNITS (1,000 FT. <sup>2</sup> /UNIT)	71 UNITS (71,000 FT. <sup>2</sup> )
2 BEDROOM UNITS (1,200 FT. <sup>2</sup> /UNIT)	23 UNITS (27,600 FT. <sup>2</sup> )
CLUBHOUSE	2,560 FT. <sup>2</sup>
ACTIVITY BUILDING	1250 FT. <sup>2</sup>
COMBINE BUILDING AREAS (FT. <sup>2</sup> )	102,410 FT. <sup>2</sup>

ROAD CENTERLINE CURVE DATA

R	A	T	L
C1	150.0'	32°02'34"	43.0725' 83.8881'
C2	136.0'	31°16'42"	38.1149' 74.3232'
C3	164.0'	17°19'28"	24.9839' 49.5865'
C4	75.0'	31°51'42"	21.4082' 41.7089'
C5	200.0'	18°45'00"	34.8156' 68.9425'
C6	150.0'	21°05'37"	28.0482' 55.4557'
C7	60.0'	88°34'03"	58.8153' 92.7476'
C8	150.0'	18°03'17"	23.8313' 47.2875'
C9	150.0'	17°16'43"	22.8351' 45.3222'
C10	163.4'	17°37'17"	25.3279' 50.2558'
C11	263.4'	13°48'44"	31.9434' 63.5763'

