



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

6

WAIVER REQUESTS

Located at 664 Kelly Road
Parcel # 830-37962-000

SUMMARY: Willow Trace is requesting Preliminary Subdivision Plat approval for 65 residential lots on 20.31 (total of 67 lots, with 2 unbuildable).

CURRENT ZONING: R-4 Residential, max 4 units per acre, min lot size 8,000 SF

CITY WARD: 3- Penny Baskin, Tim Burress

FLOODPLAIN: No

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

Water: Tontitown Water, 8-inch existing along Kelly Ave.

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

School District: Springdale

PROJECT SYNOPSIS:

Willow Trace is requesting Preliminary Subdivision Plat approval for 65 residential lots on 20.31 (total of 67 lots, with 2 unbuildable).

At the rezoning hearing, the applicant provided a bill of assurance limiting the number of lots that would be on this site. This document will need to be referenced on the subdivision plat.

The applicant is requesting four waivers:

- Waiver from 90.400.2, Alignment- to allow for a decrease in curve radius from 100' to 52'.
- Waiver from Drainage Criteria Manual 1.3.2.1- to allow for a decrease in the minimum pipe slope required from 0.5% to 0.2% pipe slope for the site and bypass drainage system.
- Waiver from Drainage Criteria Manual 3.3.2- to allow zero drop across drainage structures
- Waiver from 152.144 K.4.E- to allow trees to be planted in each yard, rather than in the green space between the street 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 #1:

Waiver from 90.400.2, Alignment- to allow for a decrease in curve radius from 100' to 52'.

According to the applicant's waiver request:

"Roadway centerline radius- The site has three 90-degree turns, which are essentially stop/turn "Intersections," but they technically are classified as a single-street radius. These streets have a radius of 52', which is less than the required 100'. Please allow this waiver. As shown on the plans, the proposed curves still allow fire trucks sufficient turning room. Also, the traffic is expected to slow to a near-stop before navigating this turn. It is nothing more than a 90-degree turn into a typical driveway."

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 Tontitown Code determines that Local Roads need to have a 100' curve radius. Interior subdivision streets are considered local roads in the Tontitown MSP, but they do act differently.

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

Staff's Response: This requirement would reduce the number of lots that could be developed on this 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: As the applicant stated, these corners will act more like intersections, and drivers will slow to a near-stop. Staff has no concern that allowing this waiver will be detrimental to the 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: Staff would not recommend this waiver for a road that was acting like a local road, only in the case of residential streets that will act more like intersections. This waiver will not prevent the orderly subdivision or development of other land in the area.

STAFF RECOMMENDATION:

Staff recommends approval of this waiver request to reduce the curve radius from 100' to 52'.

WAIVER #2:

Waiver from Drainage Criteria Manual 1.3.2.1- to allow for a decrease in the minimum pipe slope required from 0.4% to 0.2% pipe slope for the bypass drainage system.

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.*

Applicant's Letter: This land is extremely flat, and the project is not developable if these waivers are not granted. The land, as-is, drains at an extremely flat slope. Therefore, this land requires flatter-than-usual storm drainpipe slopes. Without these, the price to develop this land would make it unaffordable. At that point, the land would need to be designated parkland that could not be developed.

Staff's Response: This site is very flat, and a significant amount of fill would be required in order for the applicant to meet the criteria in the drainage manual.

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

Applicant's Letter: The property is designated on the Future Land Use Plan to be developed as

single-family residential. If the waiver is not granted, this “property right” would be denied of the owner/developer.

Staff’s Response: The potential amount of fill needed to develop this site could reduce the property rights 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.

Applicant’s Letter: All lands, with this waiver, would continue to drain and be fully maintainable. See attachment showing that minimum pipe velocities are maintained at full flow. Therefore, the intent of the drainage code for minimum slopes is still preserved because siltation will be minimized with sufficient flow velocities.

Staff’s Response: The calculations that were attached by the applicant in the first waiver request were not calculated in compliance with City of Tontitown Code. The City Engineer has asked the project engineer to recalculate this information using the correct numbers.

Based on the City Engineer’s calculation, the minimum slope required to achieve the correct velocities of flow is 0.26% for an 18-inch pipe. The project engineer has agreed to make this change, and submitted a new waiver request with the following:

“The following possible slopes, per pipe diameter, are found to meet minimum scour velocities: (though other sizes/slopes may be used)
18” @ 0.26% = 3.03 fps ; 24” @ 0.18% = 3.05 fps ; 30” @ 0.13% = 3.01 fps”

(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.

Applicant’s Letter: This waiver will not affect, or change, the ability of any other land from developing according to these regulations. These waiver requests are necessary to develop this land to the city’s intended use.

Staff’s Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

STAFF RECOMMENDATION:

As the applicant has submitted a revised Waiver request to reduce the minimum pipe slope from 0.4% to 0.26% (for 18” pipe), then staff will recommend approval with conditions.

This slope will ensure that correct velocities can be maintained and provide relief to the owner so that they are not deprived use of their land.

CONDITIONS:

1. The Project Engineer shall submit a drainage report and plans for review by the City Engineer. All minimum capacity, HGL, and full-flow velocity requirements shall be met. If the minimums cannot be met with the requested waiver, then the applicant shall be required to increase the slope in order to meet these standards.

WAIVER #3:

Waiver from Drainage Criteria Manual 3.3.2- to allow zero drop across drainage structures

Applicant's Letter: This land is extremely flat, and the project is not developable if these waivers are not granted. The land, as-is, drains at an extremely flat slope. Therefore, this land requires flatter-than-usual storm drainpipe slopes. Without these, the price to develop this land would make it unaffordable. At that point, the land would need to be designated parkland that could not be developed.

Staff's Response: **This site is very flat, and a significant amount of fill would be required in order for the applicant to meet the criteria in the drainage manual.**

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

Applicant's Letter: The property is designated on the Future Land Use Plan to be developed as single-family residential. If the waiver is not granted, this "property right" would be denied of the owner/developer.

Staff's Response: **The potential amount of fill needed to develop this site could reduce the property rights of the applicant.**

(b) 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.

Applicant's Letter: All lands, with this waiver, would continue to drain and be fully maintainable. See attachment showing that minimum pipe velocities are maintained at full flow. Therefore, the intent of the drainage code for minimum slopes is still preserved because siltation will be minimized with sufficient flow velocities.

The inlet and junction box floors will be built with proper running slope to prevent accumulation of sediment.

Staff's Response: **The City Engineer will fully review the drainage plans once they are updated. As long as the inlet and junction box floors are shown to allow proper flow to prevent sediment accumulation, this waiver will not be detrimental to the 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.

Applicant's Letter: This waiver will not affect, or change, the ability of any other land from developing according to these regulations. These waiver requests are necessary to develop this land to the city's intended use.

Staff's Response: **Granting this waiver will not prevent the orderly subdivision or development of other land in the area.**

STAFF RECOMMENDATION:

Staff recommends approval to allow zero drop across drainage structures with conditions.

CONDITIONS:

1. The Project Engineer shall submit a drainage report and plans for review by the City Engineer. All minimum capacity, HGL, and full-flow velocity requirements shall be met. If the minimums cannot be met with the requested waiver, then the applicant shall be required to increase the drop in order to meet these standards.

WAIVER #4:

Waiver from 152.144 K.4.E- to allow trees to be planted in each yard, rather than in the green space between the street and sidewalk.

According to the applicant's waiver request:

"Please allow, in-lieu of a Landscape Plan with street trees (in the right-of-way), this project to require a single front-yard tree (per subdivision covenants) in each yard. This is preferable in terms of keeping trees away from the storm network (and from the road and utilities), but also ensures proper upkeep/maintenance of the trees- because right-of-way trees would become the responsibility of the city. Yard trees are the responsibility of the homeowners."

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 request is to reduce interference with storm drains and utilities by placing a tree per lot, as required, just within the front yard instead of the ROW.

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

Staff's Response: It is likely that street trees could be placed in a manner that would not reduce the property right of the applicant, however, this request is not reducing the number of trees required, simply relocating them further into the lot.

- (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 waiver request will not be detrimental to the 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: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

STAFF RECOMMENDATION:

Staff recommends approval of this waiver request to allow trees to be planted in each yard, rather than in the green space between the street and sidewalk with conditions.

CONDITIONS:

2. Final Certificates of Occupancy will not be granted for individual residences until the required tree is planted within the front yard adjacent to the street. A note stating this shall be added to the plat.
3. The required trees shall meet City of Tontitown standards for installation and size. This information shall be provided by the developer on the plat.

PRELIMINARY PLAT

LEGEND

FEATURE LINES AND SURVEY SYMBOLS	
	PROPERTY LINE
	CENTERLINE OF ROAD
	RIGHT-OF-WAY
	FENCE
	ACCESS EASEMENT
	BUILDING SETBACK
	UTILITY EASEMENT
	CURB AND GUTTER
	ASPHALT PAVEMENT
	ASPHALT REBAR
	SETFOUND NAIL
	FOUND CORNER POST
	FOUND STONE
	SETFOUND ALUM. MONUMENT
	SET/FOUND IRON SPIKE
	RAILROAD SPIKE
	BENCH MARK (ELEV.)

UTILITY SYMBOLS	
	FLARED END SECTION
	CURB INLET
	AREA INLET
	JUNCTION BOX
	GRATE INLET
	SANITARY SEWER
	SEWER SERVICE
	FIRE HYDRANT ASSEMBLY
	WATER VALVE
	WATER METER
	WATER SERVICE
	POWER POLE
	LIGHT
	ELECTRICAL BOX
	TELEPHONE PEDestal
	GAS METER

HATCHES	
	ASPHALT
	CONCRETE
	FLOOD ZONE
	GRAVEL
	WEED
	WATER POND

THIS LEGEND MAY CONTAIN SOME SYMBOLS NOT SHOWN WITHIN THE PLAN OR PLAT VIEW

PROJECT ENGINEER

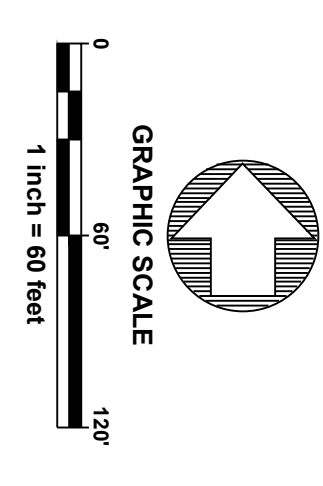
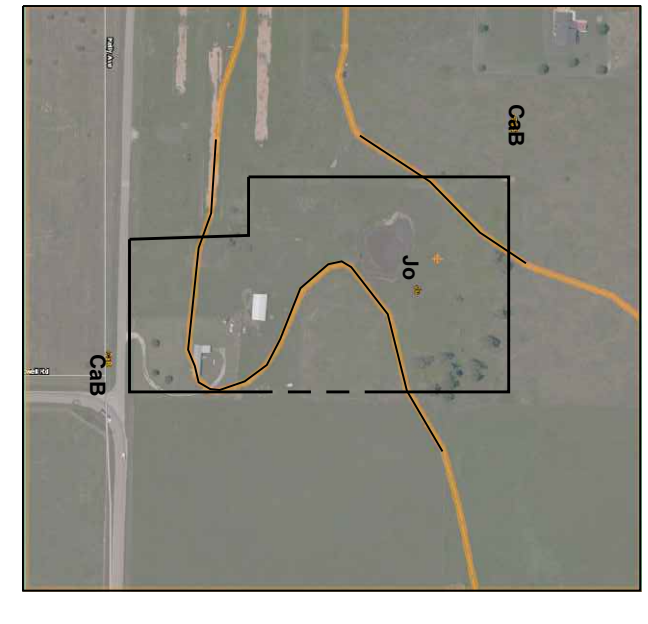
Paul Swope, P.E.
 7701 Main Street, Suite 210
 Rogers, Arkansas 72756
 479.685.8399 office

PROJECT SURVEYOR

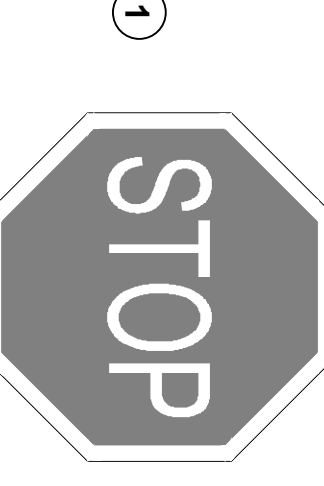
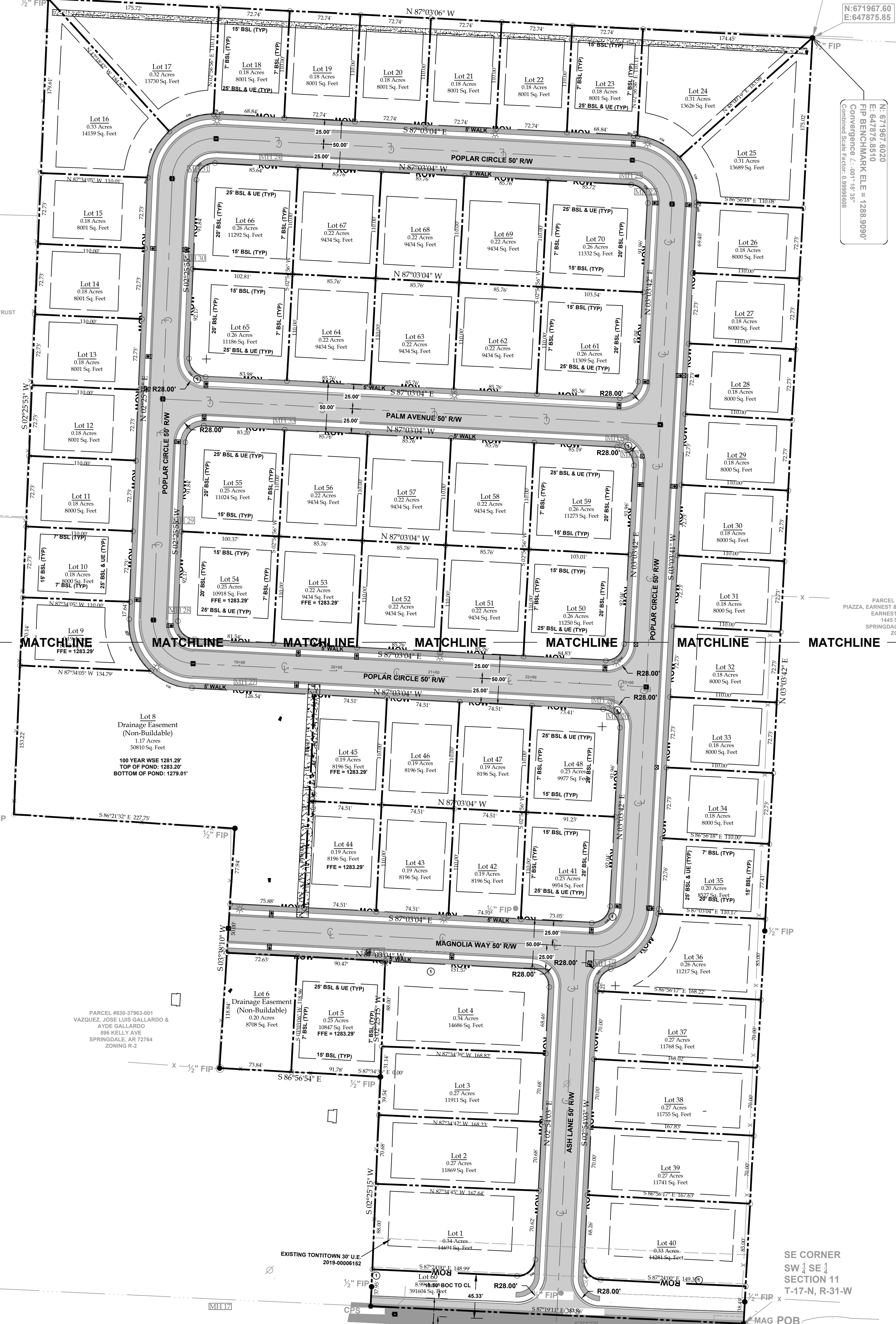
Terry Ding, P.S.
 Swope Engineering
 8511 SE 3 Street, Suite 9
 Springdale, Arkansas 72762
 479.685.8399 office

MISCELLANEOUS INFORMATION

PARCEL #830-37963-000
 HAMILTON HOLDINGS LLC
 PO BOX 1120
 TONTITOWN, AR 72770
 ZONING R-2



South Pointe Phases 3-5



PARCEL #830-37963-000
 MCCLURE, BENNY & TARA REVOCABLE TRUST
 816 KELLY AVE
 SPRINGDALE, AR 72762
 ZONING R-2

PARCEL #830-37966-000
 PIAZZA, EARNEST & VIRGINIA TRUST PIAZZA,
 EARNEST L. & VIRGINIA J.
 1445 S KLEING RD
 SPRINGDALE, AR 72762-9548
 ZONING A

PARCEL #830-37963-001
 VAZQUEZ, JOSE LUIS GALLARDO &
 AYEDE GALLARDO
 886 KELLY AVE
 SPRINGDALE, AR 72764
 ZONING R-2

PARCEL #830-38330-004
 KAISER, KEVIN WAYNE
 1514 BARATOGA DR
 VAN BUREN, AR 72856
 ZONING R-2

PARCEL #830-38330-002
 COLLINS, THOMAS GERARD
 811 MADELYN DR
 HABLEN, GA 30814
 ZONING R-2

PARCEL #830-38330-003
 FLORES, GONZALO & JESSICA
 130 LETHA DR
 SPRINGDALE, AR 72762
 ZONING R-2

NO.	DATE	REVISION
1	09/20/2021	FIRST SUBMITTAL
-	12/8/2021	SECOND SUBMITTAL
-	-	-

SWOPE ENGINEERING
 Civil Engineering and Land Surveying
www.swopeengineering.com

DATE	NO.	REVISION
12/8/2021	1	FIRST SUBMITTAL
09/20/2021	-	SECOND SUBMITTAL
-	-	-

OVERALL PRELIMINARY PLAT
WILLOW TRACE
 PRELIMINARY PLAT
 TRI-STAR CONTRACTORS
 KELLEY ROAD
 TONTITOWN, AR

PHILLIP R. SWOPE
 ENGINEER
 No. 11426



December 29th, 2021

City of Tontitown
235 E Henri de Tonti Blvd
Tontitown, AR 72762

RE: Waiver Requests, Willow Trace Subdivision, Kelly Road

To whom it may concern:

Please accept this request for the referenced waivers. The following allowances (waivers) are requested to finalize full approval of this project.

1. Roadway centerline radius- The site has three 90-degree turns, which are essentially stop/turn "intersections," but they technically are classified as a single-street radius. These streets have a radius of 52', which is less than the required 100'. Please allow this waiver. As shown on the plans, the proposed curves still allow fire trucks sufficient turning room.

Also, the traffic is expected to slow to a near-stop before navigating this turn. It is nothing more than a 90-degree turn into a typical driveway.

2. Pipe Slope Minimum – Due to existing grades, a slope of less than 0.4% is required to drain runoff. Please allow this variance for the storm system. This is requested for both the offsite bypass storm system and the onsite storm pipes. All minimum scour velocities of 3 fps will be maintained.
3. Storm structure elevation drop – For the same reasons in #3, above, please allow zero drop across boxes. We have installed zero-drop structures in other cities without maintenance issues. The inlet and junction box floors will be built with proper running slope to prevent accumulation of sediment.
4. Street Trees' requirement – Please allow, in-lieu of a Landscape Plan with street trees (in the right-of-way), this project to require a single front-yard tree (per subdivision covenants) in each yard. This is preferable in terms of keeping trees away from the storm network (and from the road and utilities), but also ensures proper upkeep/maintenance of the trees- because right-of-way trees would become the responsibility of the city. Yard trees are the responsibility of the homeowners.

For item numbers 2-3, please consider the following arguments to the considerations required to approve a waiver:

- (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.*

This land is extremely flat, and the project is not developable if these waivers are not granted. The land, as-is, drains at an extremely flat slope. Therefore, this land requires flatter-than-usual storm drain pipe slopes. Without these, the price to develop this land

would make it unaffordable. At that point, the land would need to be designated parkland that could not be developed.

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

The property is designated on the Future Land Use Plan to be developed as single-family residential. If the waiver is not granted, this “property right” would be denied of the owner/developer.

(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.

All lands, with this waiver, would continue to drain and be fully maintainable. See attachment showing that minimum pipe velocities are maintained at full flow. Therefore, the intent of the drainage code for minimum slopes is still preserved, because siltation will be minimized with sufficient flow velocities.

(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.

This waiver will not affect, or change, the ability of any other land from developing according to these regulations. These waiver requests are necessary to develop this land to the city’s intended use.

The following possible slopes, per pipe diameter, are found to meet minimum scour velocities: (though other sizes/slopes may be used)

18” @ 0.26% = 3.03 fps

24” @ 0.18% = 3.05 fps

30” @ 0.13% = 3.01 fps

The four waiver requests above were requested after considering all other feasible alternatives. They are also found to cause no impact to health, safety, or welfare of the public.

Sincerely,



Phil Swope, PE
Project Engineer