



CITY OF TONTITOWN PLANNING OFFICE

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

Meeting: **January 25, 2022**
Project: **Willow Trace Waiver**
Planner: Courtney McNair, Garver

PLANNING COMMISSION AGENDA ITEM

2

WAIVER REQUEST

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

SUMMARY: Willow Trace is requesting Preliminary Subdivision Plat approval for 64 residential lots on 20.31 (total of 67 lots, with 3 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 64 residential lots on 20.31 (total of 67 lots, with 3 unbuildable). The Preliminary Plat has been tabled to the next Planning Commission meeting.

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 one additional waiver (in addition to the four approved at the last Planning Commission Meeting)

- Waiver from Drainage Criteria Manual – to allow the 10-year Hydraulic Grade Line (HGL) to be closer than 2-feet to the ground.

Previously approved waivers included:

- Waiver from 90.400.2, Alignment- to allow for a decrease in curve radius from 100' to 52'.
 - Approved with no additional conditions.

- 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.
 - Approved with the following condition:
 - 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 from Drainage Criteria Manual 3.3.2- to allow zero drop across drainage structures
 - Approved with the following condition:
 - 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 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.
 - Approved with the following conditions:
 - 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.
 - The required trees shall meet City of Tontitown standards for installation and size. This information shall be provided by the developer on the plat.

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 Drainage Criteria Manual – to allow the 10-year Hydraulic Grade Line (HGL) to be closer than 2-feet to the ground.

- (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.

An HGL less than 2-feet below ground for a 10-year storm event is needed because the pipes are too shallow. Shallow pipes are required to successfully drain a flat site like this one.

Staff's Response: This site is very flat, and previous waivers were granted to allow the pipe slope to be shallower than what is required by the Tontitown 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: This site is very flat, and in order to increase the pipe slopes and provide proper coverage for the 10-year HGL, a significant amount of fill would be needed.

- (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.

Staff's Response: The City Engineer will fully review the drainage plans once they are updated. As long as the capacity requirements of the Drainage Manual are met, the 10-year HGL is kept within the pipe, and the 100-year HGL meets the requirements of the Drainage Manual, this waiver will not be detrimental to the public health, safety, or welfare.

If the capacity requirements of the Drainage Manual are not met, the 10-year HGL is not kept within the pipe, and the 100-year HGL does not meet the requirements of the Drainage Manual, the Preliminary Plat will not be recommended for approval unless additional changes are made to the design and fully reviewed by the City Engineer.

(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 of the waiver for the 10-year HGL to be closer than 2' below ground level with conditions.

If the below conditions cannot be met, the Preliminary Plat will not be recommended for approval unless additional changes are made to the design and fully reviewed by the City Engineer.

CONDITIONS:

1. The capacity requirements of the Drainage Manual shall be met.
2. The 10-year HGL shall be kept within the pipe.
3. The 100-year HGL shall be required to meet the requirements of the Drainage Manual



January 21st, 2022

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 additional allowances (waivers) are requested to finalize full approval of this project. These variances are of the same category as those previously approved to allow for lesser drainage criteria on such a flat site.

1. Hydraulic grade line (HGL) stays 2' below ground in 10-yr event – All pipes keep the 10- and 100-year event HGL's underground. However, in some cases, the 10-year HGL is closer to the ground than 2'.

For this waiver, 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.

An HGL less than 2-feet below ground for a 10-year event is needed because the pipes are too shallow. Shallow pipes are required to successfully drain a flat site like this one.

- (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.

Sincerely,

A handwritten signature in black ink that reads "Phil Swope". The signature is written in a cursive, flowing style.

Phil Swope, PE
Project Engineer