



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **July 26, 2022**
Project: **Manhattan Steel Door**
Planner: Courtney McNair, Garver

PLANNING COMMISSION AGENDA ITEM

3

WAIVER REQUESTS

Located at the southeast corner of the intersection of Jean Mary Drive and Via de Tonti Lane.
Parcel # 830-37834-000

SUMMARY: The applicant is requesting Preliminary Large-Scale Development approval to construct an approx. 5,000 SF commercial building and associated parking on approximately 0.64 acres. This site is within the floodplain, and has floodway.

CURRENT ZONING: C-2 General Commercial-the proposed development meets the current zoning.

CITY WARD: 2- Arthur Penzo & Larry Ardemagni

FLOODPLAIN: YES-significant floodplain and floodway on this property.

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
School District: Springdale

PROJECT SYNOPSIS:

The applicant is requesting Preliminary Large-Scale Development approval to construct an approx. 5,000 SF commercial building and associated parking on approximately 0.64 acres. This site is within the floodplain, and has floodway.

This property is part of Lot 14 of the Tontitown Business Park Subdivision.

The proposed site plan shows three driveways on Via de Tonti Lane. Two for deliveries/pickups, and one that will access the parking area.

Additional detention is not proposed due to the proximity of the floodway.

The applicant is requesting two (2) waivers regarding the building façade materials and driveway spacing:

- a. Waiver request from requirements in Chapter 153.211 to allow driveways on the same lot to be closer than 50 feet to each other.
- b. Waiver request from requirements in Chapter 152.151 to reduce the articulation and % of materials required in the Building Design Standards.

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 REQUEST A:

Waiver request from requirements in Chapter 153.211 to allow driveways on the same lot to be closer than 50 feet to each other.

(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 site is significantly constrained by the shape and size of this existing lot.

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

Staff's Response: Many alternatives were evaluated, and this is the only configuration that will work for access to the two overhead doors. The applicant would need to alter their desired building use if this waiver is not granted.

(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.*

Staff's Response: Granting this waiver will not be detrimental to the public health, safety, and welfare 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.*

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 applicant's waiver request from Chapter 153.211 to allow driveways on the same lot to be closer than 50 feet to each other.

WAIVER REQUEST B:

Waiver request from requirements in Chapter 152.151 to reduce the required articulation and % of materials in the Building Design Standards.

- (c) *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: According to the applicant's letter, they "feel they are using upgraded materials that include brick, Mac Metal hardywood (a no maintenance wood looking siding), and a reverse M loc. An exposed fastener panel with a regular profile that they feel is clean and modern material use for out proposed structure".

Staff's Response: As this is a commercial building, articulation of at least two feet for 25% of the building is required for every 50' of length of the building. There is none proposed at this time. Only the southwest (front) elevation would be required to meet this standard.

Additionally, the building materials are required to be 75% of the street-facing facades of the building (or visible from the public). This includes the southwest (front) elevation, and the northwest (parking lot side) of the building. The SW side has 73% of the required materials, and the NW side has 53% of the required materials.

This area is typically more industrial than commercial in nature, but nothing specific to this site that would cause the applicant to not be able to meet the required materials in the Building Design Standards.

The building may not be able to meet articulation standards as the site is significantly constrained.

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

Staff's Response: This waiver is not necessary for the preservation and enjoyment of a substantial property right of the applicant.

- (d) *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: Granting this waiver will not be detrimental to the public health, safety, and welfare 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.*

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

STAFF RECOMMENDATION:

1. **Building Articulation:** Staff recommends APPROVAL of the waiver request to not require articulation on the SW (front) of this building due to constraints on the size and shape of the property.
2. **Building material:** Staff finds no special circumstances for this site that would cause the applicant to not be able to meet the required building materials. Staff recommends DENIAL of the waiver to reduce the % of required building materials on the SW (front), and the NW (parking lot side) of the buildings.

Site location:

