



## CITY OF TONTITOWN PLANNING OFFICE

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

Meeting: **August 23, 2022**  
Project: **Laura Lane Warehouse**  
Planner: Courtney McNair, Garver

### PLANNING COMMISSION AGENDA ITEM

## 3

### WAIVER REQUEST

SW Corner of Laura Ln. & Agnes Dr., Laura Lane Warehouse Addition  
Parcel # 830-38114-000

**SUMMARY:** The applicant is requesting a Waiver from otherwise required sidewalks, per section 153.216 of the Tontitown Code to remove the requirement to construct sidewalks along Laura Lane and Agnes Drive.

**CURRENT ZONING:** **I Industrial** - The proposed development meets the current zoning.

**CITY WARD:** 1- Gene McCartney, Amber Ibarra

**FLOODPLAIN:** No

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

**Water:** Tontitown Water, existing 8" waterline

**Electric:** Ozarks Electric Cooperative

**Sewer/Septic:** Tontitown Sewer

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

**School District:** Springdale

### PROJECT SYNOPSIS:

The owner/applicant for this project is Mathias Shopping Centers, Inc., represented by Mr. Mathew K. Loos, P.E. of Olsson Associates. The property is located at 609 Laura Ln., in Tontitown.

The applicant is requesting Waiver from otherwise required sidewalks, per section 153.216 of the Tontitown Code, which requires sidewalks be constructed for all commercial developments, to remove the requirement to construct sidewalks along Laura Lane and Agnes Drive.

#### Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such Waiver from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A Waiver from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.*

**Staff's Response:** The lot is an existing lot of record and has been planned / zoned for this

type of development.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

**Staff's Response:** The literal interpretation of the Tontitown zoning code, if implemented, would not deprive the applicant or the associated property rights enjoyed by other properties that are similar in use and zone.

that special conditions and circumstances do not result from the actions of the applicant.

**Staff's Response:** The applicants attest special circumstances in this case are that the area does not attract and/or generate pedestrian traffic.

and that granting the Waiver requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

**Staff's Response:** Granting the request would keep this property from developing / improving their frontage with pedestrian amenities, however, this area is almost completely built-out and is unlikely to redevelop.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a Waiver.*

**Staff's Response:** Staff is not considering non-conforming uses, only the potential for future connections and the nature of this location.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the Waiver, and that the Waiver is the minimum Waiver that will make possible the reasonable use of land, building, or structure.*

**Staff's Response:** The sidewalk being referenced is for the south side of a single parcel, interior to the roadway, and amounts to a limited amount of pedestrian amenity. There are no other sidewalks, and the area is almost filled in with limited possibility of redevelopment.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the Waiver will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

**Staff's Response:** Granting a waiver for the construction of sidewalks would not be injurious to the neighborhood in this specific location.

- (5) *In granting any Waiver, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the Waiver is granted, shall be deemed a violation of these regulations.*

**Staff's Response: No further conditions recommended by Staff.**

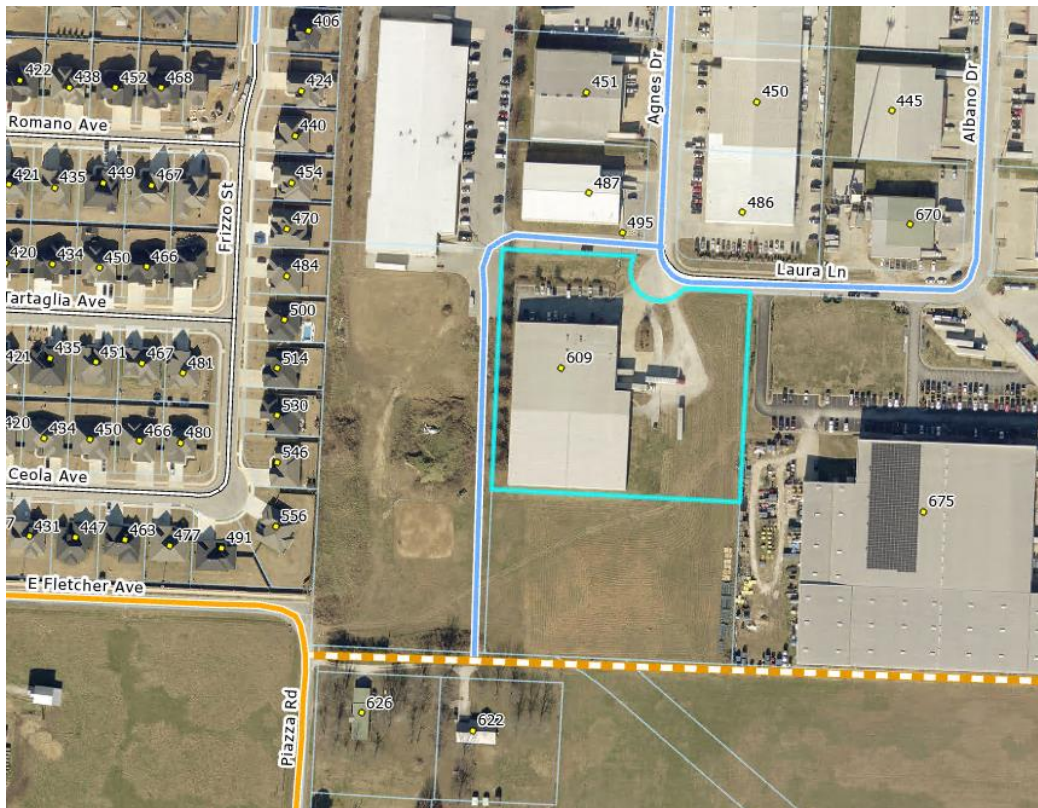
- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a Waiver to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

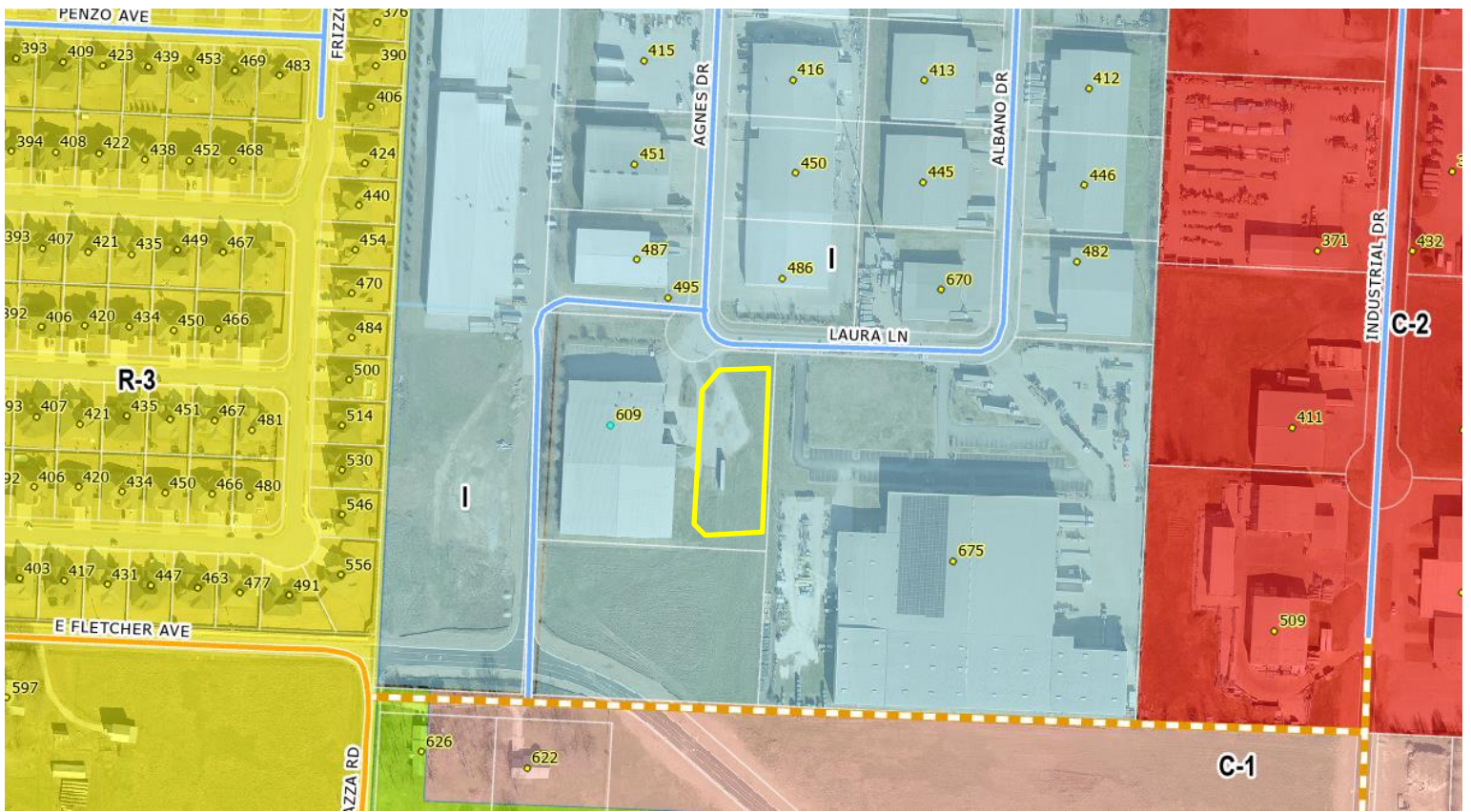
**Staff's Response: Granting this request will not allow a use that is not permissible by code.**

**NEIGHBOR COMMENTS:** All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. Staff has received no comments at this time.

**STAFF RECOMMENDATION:** Staff recommends approval of the requested Waiver to remove the requirement to construct sidewalks along Laura Lane and Agnes Drive. This area is almost completely developed and does not have a possibility of a fully connected pedestrian system based on the nature and location of this site.

**Site location:**





ZONING GRAPHIC





August 2, 2022

**City of Tontitown**

Attn: Planning Department  
PO Box 305  
Tontitown, AR 72762

RE: Laura Lane Warehouse Addition  
609 Laura Lane  
Large Scale Development Plans

**Dear Planning Staff and Commissioners,**

Mathias Shopping Centers, Inc. is proposing to build a new 17,767 SF warehouse addition on the 3.70-acre property located at 609 Laura Lane. The property currently contains a roughly 50,000 SF warehouse with existing parking and driveway and is located within the Industrial District (zoned I- Industrial). Due to the nature of the building and site, there is a minor waiver that is being requested for the success and uniformity of the proposed project.

Section 153.216 Sidewalks of the Tontitown Municipal Code states that sidewalks shall be required for all commercial developments. Per Article 90.900 Sidewalks of the Tontitown Municipal Code, the required sidewalk for this project would be a 5' sidewalk located 5 ft from the back of curb along Laura Lane as well as along Agnes Drive to the west of the site. We are requesting for this requirement for sidewalks along Laura Lane and Agnes Drive to be waived. **This is a request for a waiver from Section 153.216 requirement for sidewalks on the site along Laura Lane and Agnes Drive.**

- The nature of the building is a warehouse and does not attract or promote pedestrian traffic on the site.
- There is an existing sidewalk across Laura Lane that provides pedestrian access to surrounding sites.
- There are no existing or planned sidewalk connections on either side of the site.
- A waiver for the sidewalk requirement would allow for more greenspace on the frontage of the site, a scarcity in an Industrial District.

Based on the facts provided above, we would request a waiver for Section 153.216 requiring sidewalks on the site along Laura Lane and Agnes Drive. Should you have any questions, please contact me at 501.733.2240 or at [mloos@olsson.com](mailto:mloos@olsson.com).

Sincerely,

**Matthew K. Loos, P.E.**  
*Olsson Project Manager*