



## CITY OF TONTITOWN PLANNING OFFICE

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

Meeting: **February 28, 2023**  
Project: **Copart Waiver**  
Planner: Courtney McNair, Garver

### PLANNING COMMISSION AGENDA ITEM

## PC 6

### WAIVER REQUEST

W. Henri de Tonti Blvd. (W. Hwy. 412) (north of 2902 W HDT)  
Parcel # 830-37909-001, 830-37897-007, 830-37897-006

**SUMMARY:** Copart is requesting a waiver of the requirement that all off-street parking and loading areas and access drives shall be curbed, and the requirement that landscape islands and other interior features within parking lots be curbed.

**CURRENT ZONING:** I -Industrial, this use is allowable with a Conditional Use Permit.

**CITY WARD:** 3- Mike Washkowiak, Tim Burress

**FLOODPLAIN:** No

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

**Water:** Tontitown Water, existing 6" waterline

**Electric:** Ozarks Electric

**Sewer/Septic:** Individual Septic System

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

**School District:** Springdale

#### PROJECT SYNOPSIS:

Copart is requesting Preliminary LSD approval to construct a Wrecking/Salvage/Junkyard for vehicle storage on 25 acres of land. They plan to have a small 10-foot by 40-foot operations trailer and a parking lot for customer/employee parking.

The developer is also requesting:

- Conditional Use Permit to allow the requested use.
- Variance to reduce the required buffer from 100 feet to 25 feet.
- Waiver from the requirement that parking areas and drives and landscaping shall be curbed.

#### 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 of the requirement that all off-street parking and loading areas and access drives shall be curbed, and the requirement that landscape islands and other interior features within parking lots be curbed.**

- (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:**

"Lastly, as part of these applications, Copart is requesting a waiver from the City of Tontitown, Arkansas Code of Ordinances Title XV. Ch. 153.210.A.4.i (Off-Street Parking and Loading). This section states the perimeter of all off-street parking and loading areas and their access drives shall be curbed. Landscape islands and other interior features within parking lots shall also be protected by curbs. We are requesting to have this curbing requirement waived due to the industrial nature of the business and due to the parking lot being behind a locked fence after hours. The irregular shape of the parcels also requires an exceptionally long access driveway to the facility. Providing curbing for this entire driveway and parking lot would be cost prohibitive. There is however approximately 140-linear feet of curb on the south side of the parking lot to direct stormwater runoff to a catch basin and prevent this runoff from flowing directly offsite."

**Staff's Response: While staff agrees that the back parking area and drop lot area are unique conditions, staff does not believe that removing protective curbing from the landscape areas is necessary or constitutes a special circumstance. The front parking area is also comparable to other similar businesses.**

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

**Staff's Response: The back lot is very large, and the long driveway is unique to this property.**

- (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 public health, safety, and welfare, or be injurious to other property 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 that a portion of this requested waiver be approved. Staff recommends that the required curbing for the driveway, the drop lot, and the back parking area be granted. However, staff recommends that all landscaping be protected by curbing, and the front parking area be curbed.