



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **October 24, 2023**
Project: Old Oak Waiver 1
Planner: Mark Latham, City Planner

PLANNING COMMISSION AGENDA ITEM

PC3

Old Oak Warehouse – WAIVER REQUEST 1

432 Industrial Drive
Parcel #: 830-37804-000

SUMMARY:

The applicant is requesting a waiver from the City Code 153.212, Landscaping.

CURRENT ZONING: C2 – General Commercial with CUP under consideration.

CITY WARD: 1- Misty Piazza, Amber Ibarra

FLOODPLAIN: No

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

Tontitown Water - existing 8" waterline

Electric: Ozark Electric

Sewer/Septic: Tontitown Sewer - existing 8" sanitary line

Phone: AT&T

Natural Gas: Black Hills Energy **Cable:**

Cox Communications

School District: Springdale

PROJECT SYNOPSIS:

The applicant is requesting a several waivers from the City Landscape Code. The applicant does not describe in detail what section in the code needs a waiver, so I assume all the code since the LSD did not include a landscape plan.

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.*

(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 reasonable use of this land.

Applicant's Letter: The concerns over the landscape code addressed in the letter addresses current utilities prevented areas for landscape.

Staff's Response: Staff understand the concerns addressed by the owner regarding utilities and driveway access, which could warrant the request for waiver.

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

Applicant's Letter: The applicant did not describe the need as described under this description.

Staff's Response: The intent of the applicant's letter did not go into any detail in addressing the *substantial 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: The applicant did not describe the need as described under this description.

Staff's Response: Although the applicant did not address this in the letter but staff believes the waiver would not deter public health, safety, and 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: The applicant did address the current conditions that exist in the area as to the waiver.

Staff's Response: This area is more contusive to light commercial and the current uses in the area.

STAFF RECOMMENDATION:

During the Tech Review staff gave the applicant some ideas on changes to the site plan that would address the issues regarding landscape, therefore staff recommends denial of this waiver.

Site location: