



CITY OF TONTITOWN PLANNING OFFICE

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

Meeting: **October 24, 2023**
Project: Old Oak Waiver 2
Planner: Mark Latham, City Planner

PLANNING COMMISSION AGENDA ITEM **PC4**

Old Oak Warehouse – WAIVER REQUEST 3

432 Industrial Drive
Parcel #: 830-37804-000

SUMMARY:

The applicant is requesting a waiver from the City Code 90.400, right-a-width, pavement section, and sidewalk.

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 three waivers under one general waiver with respect to right-of-way width, pavement, and sidewalk. from the City Landscape Code.

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 applicant letter addresses the current conditions within the area with respect to sidewalks and right-of-way.

Staff's Response: **Staff understand the current conditions addressed in the applicant's letter.**

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

Applicant's Letter: The applicant letter addresses the current conditions within the area.

Staff's Response: **Staff understand the current conditions addressed in the applicant's letter but 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: Staff agrees with the applicant on waiving the right-of-way and pavement section but still needs a sidewalk.

STAFF RECOMMENDATION:

Staff recommend approving a waiver for the right-of-way and pavement section. Staff recommends no waiver of the sidewalk since the area is close to Fletcher.

Site location: