



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **October 24, 2023**
Project: Old Oak Waiver 3
Planner: Mark Latham, City Planner

**PLANNING COMMISSION AGENDA ITEM
PC5**

Old Oak Warehouse – WAIVER REQUEST 3

432 Industrial Drive
Parcel #: 830-37804-000

SUMMARY:

The applicant is requesting a waiver from the City Code 152.151, Design Standards for Large Scale Developments.

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 waiver under section 152.151, Design Standards for Large Scale Development to the façade requirements of 75%.

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 facilities within the area of the development.

Staff's Response: Staff understand the current conditions addressed in the applicant's letter as to its relationship to existing structures in the area.

(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, but only addressed current facilities in the area.

Staff's Response: Staff agrees with the applicant on current conditions but believes applicant must adhere to the requirements.

STAFF RECOMMENDATION:

Staff recommend denial of the waiver for Design Standards for the Large Scale Development code.

Site location: