



## EXPLANATION OF SUBDIVISION REGULATIONS VARIANCE PROCESS PLANNING COMMISSION

This is a quick explanation of the City of Tuttle procedures for requesting a variance regarding the Tuttle Subdivision Regulations from the Planning Commission. Please read carefully.

The Community Development staff is available to assist you in determining if requesting a variance is appropriate based on what you are trying to achieve. The Planning Commission may only grant variances based upon positive findings of fact of specific criteria established by state statute and local ordinances. If you decide to request a variance, you will need to submit the following documents to the Community Development Department to begin the process:

- A completed and signed Subdivision Regulations Variance Application
- A copy of the current deed to the property (staff only has electronic access to County Clerk records from about 1992 to today)
- Written property owner consent if the applicant is not the property owner
- A certified property ownership list of property owners that are within 300 feet of the subject property (this is usually obtained from a local abstract company for a fee). If 10 property owners are not located within a 300-foot radius of the property, then the radius will be increased by increments of 100 feet until 10 property owners are in the radius.
- A legal description of the subject property (the legal description used by the abstract company will usually work).
- A check addressed to the City of Tuttle in the amount of \$200 (this fee pays for the mailings and newspaper publication). \*\*Note: you will also be responsible for additional costs of legal and engineering services the City of Tuttle may incur.

After these documents have been received by the Community Development Department, staff will begin reviewing them. The City of Tuttle is not responsible for the accuracy of submitted documents. Once the submitted application and required documents have been reviewed by staff, they will then assign a PC Petition # and will begin preparing documents and reports to the Planning Commission.

For the purposes of variance requests, the Planning Commission will be a quasi-judicial board. In other words, it functions very similar to a court, with the Planning Commission acting as the judge. Prior to conducting a hearing, state statute requires public notification to be given to the surrounding property owners and to the community as a whole. A notice of the proposed variance must be mailed to all property owners within 300 feet of the subject property at least ten (10) days prior to the hearing. Notice is also required to be published in the newspaper at least fifteen (15) days prior to the hearing. For this reason, variance and special exception applications not received at least 28 days prior to the next Planning Commission meeting will be placed on the agenda for the following meeting. City staff will prepare, mail, and publish the notices for the meeting after the appropriate documentation has been received.

The Planning Commission typically meets, at 6:30 pm on the first Monday of each month at Tuttle City Hall. At the hearing conducted by the Planning Commission, you will have an opportunity to address the Planning Commission, along with surrounding residents and any other interested party. It is highly recommended that you or someone else who is authorized to speak on your behalf and is knowledgeable about your request be present. You and your authorized representatives are responsible for making your case for your request to the Planning Commission. The Planning Commission may postpone making a decision or deny

the request if they are not comfortable they have all of the information they need to make an informed decision.

The Planning Commission will make its final decision by approving a Finding of Fact. This document details all of the facts presented and the Planning Commission's determination of whether or not the required criteria for the request has been met. State statutes and Tuttle ordinances do not discuss how variances granted by the Planning Commission are appealed. The applicant normally can appeal any decision of the Planning Commission directly to the City Council.

**IMPORTANT NOTE:** The Planning Commission cannot grant any variance due to pure economic reasons. In other words, a variance may not be granted simply because it will save the petitioner money.

For variance requests regarding the requirements of the Tuttle Subdivision Regulations, the Planning Commission must make a positive finding for each of the following criteria:

1. The granting of the Variance will not be detrimental to the public peace, safety, health or welfare, or injurious to other property in the area where the Variance is located, and
2. The conditions upon which the request for a Variance is based are unique to the property for which the Variance is sought and are not applicable generally to any other property; and
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result (as distinguished from a mere inconvenience), if the strict letter of the Subdivision Regulations were to be carried out; and
4. The Variances will not in any manner conflict with, or vary from, the provisions of the adopted Zoning Ordinance or present or future Comprehensive Plan.