

July 25, 2006 – Tontitown Planning Commission – Minutes

6:00 PM

Ralph Pendergraft called the meeting to order.

Roll was called. Karen Inlow was late. Jeff Hawkins from Northwest Arkansas Regional Planning was present.

Ralph Pendergraft – Chairman – called to order the meeting of the Tontitown Planning Commission. The purpose of the meeting is a public hearing on Tontitown's zoning ordinance. He thanked everyone for taking the time to come out. He continued that he would like to set some ground rules so that it would be an orderly meeting and hopefully conclude at a decent time. Mr. Pendergraft stated that first of all anyone wanting to speak should raise their hand and he will recognize them. He went on that the person should then come to the podium, state their name and address, and they will be given three minutes to give comments or opinions. He asked that everyone keep in mind that the purpose is to try to plan how we want Tontitown to look in 25 – 30 years. He continued that he believes that this is a unique opportunity to zone the town so that it will be something to be proud of. Mr. Pendergraft asked that personalities not be involved and to do what is best for Tontitown. He continued that next year at this time we (Tontitown) should have sewer and after that Tontitown will explode. He stated that now is the time to plan for that. He assured attendees that the Commission would listen to them to get their comments and opinions. He added that it will then be up to the Commission if they want to act on the plan that night or table it under advisement and have another meeting. Mr. Pendergraft stated that he has been asked by Mr. Gunderson not to vote except to break a tie and then only in favor of the motion. He added that, for the record, he had asked Mr. Gunderson about this about three months ago at that time he (Gunderson) said at that time the Commission has never adopted Robert's Rules of Order so he (Pendergraft) could vote anyway he (Pendergraft) wanted. He continued that he really didn't think that it mattered that much as the Commission almost always votes unanimously anyway. He added that he is fine with this decision; he just wanted to let the Commission and public know why he was not voting. Mr. Pendergraft noted that Jeff Hawkins with Regional Planning was present and that the Commission appreciated him. He added that the Commission would be calling on him from time to time. He stated that the Commission will listen to the public's comments and views and take them under consideration but will not debate.

Ronnie Delozier – 1003 Kelly – stated that he has been a resident for fifty-eight of his sixty-eight years. He continued that he is proud to have been involved in agriculture, which was the main source of income for his ancestors as many other families in our city. He commented that he has worked in the vineyards and orchards, caught chickens, bailed hay, and worked hard for the land on which he now lives. He went on that he regrets that he has remained silent during our city leader's efforts to take actions regarding proper zoning of our city. Mr. Delozier stated that he has read several newspaper articles which he believes unduly criticized our city leaders. He continued some of the city residents have made comments in the newspapers which indicate that they represent the silent majority of our city. He commented that he thinks it is time he speaks for himself and others to this point. He thanked all the city leaders for their time and efforts over the past year to achieve a plan for zoning which will prepare our city for the eminent changes

which lie ahead. He commented that it is always easy to criticize others until you walk a mile in their shoes. He stated his support and commended them for their time and efforts in public service. Mr. Delozier commented that he has reviewed the proposed zoning map. He continued that he understood that this was an attempt to appease 5.1% of the Tontitown landowners who did not like the map as approved by both the Planning Commission and the City Council in December 2005. He went on that these folks were given forty-five days to decide and make their request to rezone back to agriculture for their zoning as reflected in the December 2005 map. Mr. Delozier stated that while he appreciates the efforts of Mayor Smith and the aldermen to allow these folks to choose this option, he would like to appeal to those landowners who have a different thought from those folks. He went on that he still practices agriculture on his property and he knows he may do so legally under Arkansas law as long as he chooses to regardless of his zoning. He stated that he also knows that his taxes will not change until his use changes to something other than agriculture. He commented that there simply is no logic that anyone can buy land in our city to feasibly begin a new agriculture operation. He continued that at today's land costs it is not practical for most middle income folks to buy an acre of land, build a decent house, and maintain it properly. He went on that most old folks of his generation don't want an acre yard to mow. Mr. Delozier stated that his land is a large part of his life savings, and he intends to sell it someday. He continued that he also knows that development is more practical when higher density is permissible. He commented that "we" presently have sewer projects underway which now make higher housing densities possible. He stated that he speaks for himself and a signed list of landowners (Preston Lindley, Kenneth Lynch, Scott Dennis, Bobby Pianalto, Benny McClure, Dwight Stinchcomb, and John Bixler) in respectfully requesting of the City Officials to allow their land to be reflected in the proposed zoning map as R-3. He requested that their wish be granted as has that of those citizens who wish to be zoned agriculture.

Ralph Pendergraft asked that Mr. Delozier to confirm that they would like to rezone their parcels to R-3.

Ronnie Delozier confirmed.

Chuck Savage asked if these parcels are changed, does the Commission have to vote on it.

Ralph Pendergraft replied that what he assumes is that they listen and consider changes and then make a decision.

Bobby Pianalto – Kelly Road – stated that he worked every field and farm in this town and many of his thoughts are the same as Ronnie's. He went on that he made a living farming all his life, but now someone can't buy this land, grow pot, and pay for it. He continued that he provided for his retirement by farming, but you can't make money farming. He commented that the more he gets for his land the better he retires. He stated that if someone wants to buy his land for agriculture, that's fine, but pay for it.

Andrew Penzo 957 N. Barrington – stated that he would speak for his son, Michael Penzo, and as Alderman for Ward 2. He went on that there are five people who need help (Kelly Clark, Arthur Penzo, Lloyd Bariola, Guy Bariola, and Johnny Green) have about 230 acres that was R-1 on the other map. He continued that the new bypass will be taking some of that and they want some bargaining power and want to go R-3. He commented that there's an eight inch water line all around to support that zoning.

Tommy Granata addressed Mr. Penzo commenting that when discussing the Master Street Plan, a frontage road with an exit ramp has been discussed which would lead more traffic to that land. He asked if the land may be better towards a commercial zoning.

Andrew Penzo replied that that is down the road and they would wait for that road.

Brenda Edgmon – 740 Piazza – stated that she believes the comments stated about only 5% of the people of Tontitown landowners were unhappy about the rezoning map that was repealed is very incorrect. She continued here are two reasons why: first, some people did not opt out because they were misled. She went on they were told it would not matter if they did opt out. She commented the second reason was some people that did opt out were threatened by the head of the Planning Commission and others. She continued that she doesn't know much about the law, but knows there is no way that this could be right. Mrs. Edgmon stated that these are two of the reasons she feels that many of the Tontitown landowners' voices have not been heard and that this whole issue needs to go to the people of Tontitown and be voted on. She added that she wanted this to be put on record. She thanked the Commission.

Sunny Hinshaw – 2060 S. Barrington – regarding the opt-out, she addressed Ronnie Delozier directly and stated that she is 180 degrees, she is young, and wants to live. She continued that her dad had land and wants to keep it that way. She commented that ADEQ has regulations that mandate zoning take place in small steps. Again she addressed Mr. Delozier and indicated that she has respect for him wanting to get his money she wants history with an Overlay District before it's all going to hell. She went on that we need to use the land consistently, not globs of big houses.

Robert Wilson – 591 S. Barrington – stated that he does not have a big farm. He continued that he has lived here ten years next door to TRS, doesn't farm or have animals; he works in Tontitown for the U of A. He went on that he's a new person to Tontitown, likes people, likes the area, and applauds the work of the Commission. He commented that he is the future of Tontitown, that there will be an influx of change in population, culture, workforce, and economics. He stated that if you don't change with the change, you die.

Ralph Pendergraft stated that they are working on an Overlay District along 412 and down 112, but it's not quite ready yet. He continued that they didn't want the Overlay District or Master Street Plan mixed in with the zoning. He went on that the Master Street Plan is next, then the Overlay District.

Karen Inlow asked Rick Williams if the Overlay District should be on this map. She continued that maybe it wouldn't happen if it wasn't zoned.

Rick Williams answered that the Overlay and Historic District will have strength for preservation, but there are some items that are not worked out yet. He continued that it will affect values and design, protect heritage and integrity. He went on that it will not look like other towns, it will be Tontitown. He stated that he has mixed emotions as to whether it should be on it; if it's not embraced with the zoning, it will be lost. He commented that it's an education process – growth will happen, so you need measure to control it. He continued that also need time so it's understood – a lot of developers will oppose.

Ralph Pendergraft commented that that was one of the first things Mr. Williams talked about when he was hired. He went on that residents will be proud of it.

Lloyd Bariola – 1457 Theresa – stated that that lady was talking about keeping it the same, the bypass will leave him with 15 acres that he can't really sell because it'll be

landlocked. He continued that surrounding properties will be able to sell for more because they're not getting hit with the bypass.

Joe Piazza – 1123 Sabatini – stated that they would like their land back at R-3. He went on that he was born with cows and chickens and he feels the best thing is to get the most for your land. He continued that his neighbor wants to go R-3 like they do. He commented that everyone talks about the “good old days” – they weren't. He went on that you move on and develop.

Christ Tride – 1500 Kelly – stated that he's not opposed to Bobby, but asked about the lots that are R-2, if they would stay that way.

Ralph Pendergraft stated that they would unless they wanted to change them.

Mary Hardcastle – 1241 Taldo Loop – stated that the land over there is all she has left of her grandma. She went on that she cannot afford to have a house built but would like to put in a trailer. She added that her Grandma is sick and needs the family near to help care for her.

Ralph Pendergraft stated that there is a clause for a trailer in that zoning for a family member who is sick but it is temporary.

Beverly Cortiana – 342 Sbanotto – commented that earlier it was said that with sewer, Tontitown will explode. She continued that “we” know we're going to change, but if we make our town more green it's more valuable. She went on that it would still make good money for those who want to sell. She stated that there has to be some give and take. She noted that on the internet, it shows the repealed map as the current map. She also commented that the map has changed since it was first put out.

Ralph Pendergraft asked to know what exactly Ms. Cortiana wanted with her property and that the Commission would make no promises.

Beverly Cortiana stated that she would like her land as agricultural. She commented that the naming of the districts is difficult. She provided the example that R-4 sounds like 4 per acre but it's actually for manufactured housing.

Lucias Mhoon – 2476 Wildcat Creek – commented that it comes down to money; we need density to pay for sewer. He asked what are the cost differences in the current zoning versus the proposed zoning. He speculated that increases in land value would be 20, 30 even 40 times greater. Mr. Mhoon stated that we need to argue to the many and the few. He commented that he would like to see more commercial. He commented that it is not about less density, it's about lifestyle.

Brad Marveggio – 717 Callahan Loop – stated that in 1974 Washington Water Authority ran a line and his water bills were a minimum of \$50 per month. He commented that we need density.

Carol Long – 7776 Kissinger – commented that it is not necessary where she is. She stated that you have to have R-3 in prime areas. She continued that she didn't think anyone would have a problem making money if their property is agriculture.

David Sbanotto – 520 Sbanotto – asked if this would be the first of a couple of hearings.

Ralph Pendergraft responded that he didn't know how many.

David Sbanotto stated that he wants his five acres agriculture. He asked if we have a land use plan.

Ralph Pendergraft replied that we have a land use plan in effect – this is zoning.

Leonard Pinalto – 756 W. Henri de Tonti – requested his land as agriculture on Liberty.

George Piazza – 626 Piazza – stated that he wants his agriculture. He continued that it is supposed to have a 330' buffer zone from the property line.

Ralph Pendergraft stated that that buffer was on Mr. Piazza's side of the property. Tommy Greenlee – 748 Javello – commented that he doesn't like the high density; that it is too many houses.

David Sbanotto commented that the land use map is shaped up; is someone wants to rezone and it is consistent with the land use map, then they can.

Jeff Hawkins – NW Arkansas Regional Planning – commented that the land use map shows areas of high, medium, and low density. He continued that zoning should compliment that, but it doesn't mean that it has to be that way. He stated that that is why we have hearings and us it as a general guide.

Ralph Pendergraft commented that it doesn't always work, like along Piazza. He asked if there were any more comments, either from the public or from the Commission. He stated that there was a lot laid out.

***Motion was by Chuck Savage to adjourn the Public Hearing. Seconded by Tommy Granata.***

**Motion carried with all ayes. Public Hearing adjourned at 7:18 PM.**

Ralph Pendergraft called to order the Planning Commission meeting at 7:19 PM  
Roll was called. All members were present.

A recess was requested and granted for ten minutes.

Ralph Pendergraft called the meeting back to order at 7:32 PM and noted that roll call had already been done.

Steve Gunderson noted statute 1456.422, section #2, which contains the law that has to be followed. He read the statute. He continued that before you (the Commission) you have Chapter 153 and the map. He commented that they can adopt the map and the regulations.

Ralph Pendergraft asked if it has to be both.

Steve Gunderson confirmed. He continued that the Commission certifies and then passes it on to City Council. He noted that on page 20, paragraph six replaced R-4 as single family residential for mobile homes at one per acre.

Karen Inlow asked why it was replaced.

Steve Gunderson explained that it replaces agriculture as far as mobile homes. He noted that pages 21, 22, and 23 also reflect R-4. He read the chart and commented that 9,600 should be 10,000 on R-4 and RM, also on page 23.

Rick Williams added that we have nothing on strip mining or hazardous changes as placed in the county.

It was discussed to change R-4 to MH and to adopt county standards on strip mining and hazardous materials.

Jerome Fantinel noted as a comment for clarification that the lady on Taldo Loop who asked about mobile homes would need to be MH.

Steve Gunderson responded that on page 50 there is an emergency housing clause under §153.86.

Ralph Pendergraft asked if there were any comments.

Karen Inlow asked Jeff Hawkins if he thought the text matches the map.

Jeff Hawkins replied that the text defines the areas of the map.

David Bolinger clarified that the previous said mobile homes in agriculture and now they're in MH.

Chuck Savage asked about subdivisions in R-3, if covenant requiring one per acre would supercede the zoning.

The reply was affirmative.

David Bolinger asked for confirmation that R-4 was changed to MH and lot size is now 10,000 on page 23.

Ralph Pendergraft commented that regarding strip mining, there is a red dirt pit in the Planning Area; if county standards are adopted then they would have something to go on.

Jeff Hawkins noted that on the first page it should read the 2005 Land Use Map; §153.013 on page 21 under churches in MH currently reads "NP" – it should be "C" due to Federal law.

***Motion made by David Bolinger to adopt the proposed zoning text with noted changes. Seconded by Tommy Granata.***

Ralph Pendergraft asked if there was any discussion. He called for a vote.

**Motion carried unanimously.**

Ralph Pendergraft moved on to the zoning map.

Mick Wagner commented that it showed the breakout before tonight.

It was discussed what the table showed.

David Bolinger noted that if granting the requests (of individual zonings), it would be a slim chance of having a negative impact.

Chuck Savage commented that it's conditional so they would have to get permission.

Jeff Hawkins commented that he didn't see where agriculture would cause a problem with contiguous zoning.

§153.036 on page 17 was discussed for a house on one acre destroyed on agriculture. The ordinance for the Fantinel rezoning was shown. A buffer around the Industrial zone was discussed and added to the map.

Joe Edgmon commented that regarding the buffer, he didn't know what side it is on.

Jeff Hawkins explained the buffer zone.

***Motion made by Chuck Savage to change C-1 to C-2 in the area north of Morsani. Seconded by Tommy Granata.***

**Motion carried 4 to 2, with Jerome Fantinel and Karen Inlow opposing.**

Ralph Pendergraft asked the Commission if they were in favor of granting the request for MH on Taldo.

It was a consensus that they were not in favor.

Ann Fulton asked if that meant they were going to allow a mobile home park on Taldo.

The response was no.

Ralph Pendergraft stated that David Starkey asked to be R-1. **(\*David Starkey called the next day to request to stay agriculture)**

Changes to the map that were requested were reviewed and checked off. These changes have been noted as an attachment to the minutes.

***Motion was made by Chuck Savage to pass the map as amended. Seconded by David Bolinger.***

**Motion carried five to one, with Karen Inlow opposing.**

Karen Inlow commented that she felt like they were moving too fast which would lead them right back where they were. She added that no one was really looking at the overall viewpoint; they should let the people vote.

Sunny Hinshaw stated that she agreed with Mrs. Inlow – that there needs to be one more Public Hearing with the Overlay District presented.

Andrew Penzo argued that the Commission is not going to please everyone.

Leonard Pianalto commented that getting a vote would let them know.

Steve Gunderson clarified that in order for the people to vote, the Planning Commission has to recommend something to City Council.

Arthur Penzo stated that he wants R-3 in the bypass area in order to get the value for his property.

Brad Marveggio asked if the Overlay District was a small area.

Karen Inlow asked Mr. Williams if he likes it.

Rick Williams commented that the changes made lots of gaps, that there would be allotted buffers C-1/C-2 buffers in the Overlay District.

Husk Penzo stated that the Planning Commission was appointed to make these decisions; it would be no use having them if need to put things to a vote every time.

Joe Gonzalez – S. Pianalto Rd. – stated that he and several residents had been waiting for an opportunity to speak. He continued that there were items which they would like to address, specifically concerning the proposed RV park.

There was some discussion regarding hearing their comments as American RV was not on the agenda.

Joe Gonzalez asked how they would go about annexation.

Steve Gunderson responded that there are a few different ways and referred them to Mr. Wagner as he became familiar with the processes when he recently annexed.

Mick Wagner gave a quick overview of the annexation processes available.

There was some discussion regarding S. Pianalto and who is responsible for maintaining the street.

***Motion was made by Chuck Savage to adjourn. Seconded by Karen Inlow.***

**Motion carried with all ayes. Meeting adjourned at 9:43 PM.**

AMENDMENTS TO THE ZONING MAP

Requested by Ronnie Delozier for R-3:

830-37958-000	Preston Lindley
830-37962-000	Kenneth Lynch
830-37963-001	Scott Dennis
830-38329-000	Gina-Marie Farms (Bobby Pianalto)
830-37963-000	Benny McClure
830-38330-000	Gina-Marie Farms (Bobby Pianalto)
830-37954-000	Dwight Stinchcomb
830-38333-000	Ronnie Delozier
830-38335-000	John Bixler

Requested by Andrew Penzo for R-3:

830-37994-000	Michawel Penzo
830-37992-000	Kelly Clark
830-37993-000	Arthur Penzo
830-37972-000	Guy Bariola
830-37985-000	Lloyd Bariola
830-37973-000	Johnny Green

Requested by owners for Agriculture

830-37641-001	Beverly Cortiana
830-37641-000	Beverly Cortiana
830-37640-000	Beverly Cortiana
830-37645-000	David Sbanotto
830-37887-000	Leonard Pianalto

A buffer zone was added around the Industrial zone.

The strip of C-1 north of Morsani was changed to C-2.