

Tontitown Planning Commission
Meeting Minutes
2006-11-08

Meeting called to order at 7:01 p.m. by Tommy Granata

Roll Call:

Tommy Granata- present
Karen Inlow- present
David Bolinger- present
Jerome Fantinel- present
Norbert Ranalli- present
Ron Young - present

Also Attending:

JR Carroll- Attorney
Jeff Hawkins – NWARPC
Mick Frus – Tontitown, Planning & Zoning Department
Shane Harrison – Tontitown, Building Department
David Gilbert – EGIS Engineering, Inc.

Approval of the minutes for 2006-09-12:

No actions taken that night. There're no minutes to approve.
All in favor:

Vote:

Ranalli- yes, Fantinel- yes, Inlow- yes, Bolinger- yes, Young - yes
Motion approved

New Business:

San Gennaro:

Lance Jobe: represented San Gennaro. Mr. Jobe stated that he was seeking Final Plat approval for San Gennaro Subdivision.

Tommy Granata: asks if Mr. Gilbert with EGIS Engineering (EGIS) has any input.

David. Gilbert: EGIS replies that they had sent a letter to the City of Tontitown on November 1, 2006 regarding San Gennaro Subdivision. Letter stated that San Gennaro Subdivision appears to comply with the requirements and Code of Ordinances. EGIS recommends Final Plat approval with following conditions:

- Developer has provided proof he has paid the electric company for the installation of street lights. EGIS recommends proof of the payment be accepted as fulfilling the developer's obligations with regards to street lighting. Street lights need to be installed; and it is now in the hands of Ozark Electric Cooperative to install the street lights.

- All fire hydrants should be painted according to City requirements.
- Sidewalks have not been installed at this time. The bond must remain in place until the time all sidewalks are constructed.

Ron Young: asks what type of bond is in place.

David Gilbert: it's a third-party bond, issued by a bonding company. It's a security written usually by a guaranteed agency.

Ron Young: asks if bond will expire.

Lance Jobe: received the bond about a year ago, if it does expire, they will make sure the bond is extendable.

Ron Young: asks when sidewalks be built.

Lance Jobe: the homeowners will build the sidewalks when the lots sell.

David Gilbert: that is not a condition that is allowable under current rules, but at the time of preliminary plat approval it was an allowable condition.

Tommy Granata: Need a motion.

Karen Inlow: would like to move we approve Final Plat with conditions.

Jerome Fantinel: seconds motion

Vote:

Ranalli- yes, Fantinel- yes, Inlow- yes, Bolinger- yes, Young- yes

Motion approved

Didicom, LLC (cell tower):

Joel Taylor represented Didicom, LLC. Requesting the approval for Conditional Use Permit for a 195' self support cellular tower.

Joel Taylor: reason coming is because they are maxed out; Tontitown lies in the middle of the six mile leap-frog. Didicom believes because of Tontitown's location, it is the best suitable location. Mr. Taylor gives description of the coverage the cellular tower would provide and displays maps to Planning Commission members.

Tommy Granata: asks Planning Commission members if they have any questions.

Karen Inlow: asks if it is not true cell phone towers can be shared and have same capacity for several companies.

Joel Taylor: responds by saying many companies have different usages for towers.

Karen Inlow: are they all maxed out?

Joel Taylor: each customer is different, what is getting maxed out is based on each carrier at that location. The tower they propose is designed for four full carriers. Mr. Taylor then discusses about building the fence around the tower to enclose tower.

Tommy Granata: asks about design details of tower.

Joel Taylor: gives details of cellular phone tower design and capacity.

Ron Young: asks about the attachment that was given and asks about the fence that would be installed.

Joel Taylor: responds that the fence would be on two sides and would repair the western side and the northern side. Mr. Talyor also discusses other ways to mask the tower.

Ron Young: asks if the subdivisions were located along the south and east side of tower. Mr. Young asks why not build along the east side to hide tower from subdivision.

Joel Taylor: responds that at the time they started project they were not sure if the subdivision were going to be built. There is a security fence around Mileage Master now. Even if we did build a fence, the subdivision would still have to look at the security fence. Didicom did leave a 35 foot easement that could be landscaped in addition to buffer the view.

Tommy Granata: asks Mr. Taylor if he had considered other locations.

Joel Taylor: discusses that they have looked at other locations, but needs to be close to this area. The areas that the looked at had either parking lots, lateral lines, or sewer in the way their foundation

Karen Inlow: states that she opposes the project; not convinced there are other locations that would cover same area and states that the tower is to close to subdivision.

Ron Young: asks about lease issues.

Joel Taylor: it's a forty year lease then automatically goes to a year to year lease. Then discusses again the need for a cellular tower at the desired location and why he believes that site is the best location.

Karen Inlow: discusses the future Over Lay District and the conflict the tower would have with it.

David Bolinger: asks how much square area does the foundation cover.

Joel Taylor: 35' x 35'

David Bolinger: asks if you have looked at other possible areas in the industrial area.

Joel Taylor: doesn't believe that there is enough land area left in that area.

David Bolinger: agrees with Karen Inlow that Tontitown needs to place things where they are zoned.

Norbert Ranalli: expresses concern that the tower is to close to subdivisions and believes the tower should be places more to the west. He opposes it being in the middle of Tontitown.

Joel Taylor: discusses again the need for cell phone towers.

Ron Young: recites section 153-062 the Development Standards and Guidelines. Mr. Young doesn't believe Didicom has done enough to minimize the potential negative impact to the surrounding area.

Joel Taylor: believes the fence would be adequate and believes he has chosen the best site location for the proposed tower.

Tommy Granata: asks if Mr. Gilbert if he has looked over the project.

David Gilbert: states that he has not had the opportunity to look at it.

Tommy Granata: makes comments about installing an access road to the tower and wonders if it needs to meet standards.

Joel Taylor: states that there would be low traffic going to that tower.

Tommy Granata: asks if there are any public comments.

Citizen: asks how tall it is and asks if the trees would actually cover the tower.

Joel Taylor: again gives details about tower design.

Tommy Granata: asks again if there are comments from the public.

Tommy Granata: calls to order

Bolinger- no, Fantinel- no, Ranalli- no, Young- no, Inlow- no

Motion not approved

Tommy Granata: tells Mr. Taylor that he can appeal to City Council if he wishes to.

Jeff Hawkins: tells Mr. Taylor the procedure to appeal can be found in the City Code of the Zoning Ordinance located in third paragraph of section 153-063.

Tontitown Plaza Subdivision Bond in Lieu of Improvements for Mategani Road

Mr. Chauki: states reason for posting bond in lieu of improvements and the financial difficulty it would be to widen 260 feet of Mategani Road and move the phone lines of Southwestern Bell. Mr. Chauki states that Southwestern Bell would move the lines for the City but not for anyone else. Mr. Chauki states that Southwestern Bell is asking for an enormous amount of money to move the phone lines. Mr. Chauki discusses alternatives to cashing the bond.

Tommy Granata: asks commissioners if there are any questions.

Ron Young: asks about if they posted a cash bond today and streets widen in a year or two, the cost would go reasonably up and who would pay the difference in cost for widening the road?

Mr. Chauki: states that it would go both ways, the bond is already for \$69,000 for the work. They can agree with the City by posting a bond for \$69,000 plus or what ever the inflation rate is to be fair to the city. The bond can be adjusted.

Ron Young: if you build the streets now, will you hire the contractors or will you do it yourself. If it's built in a year or two who will build it?

Mr. Chauki: two options. You can use bond and use your own contractors to do work or we can carry out the work.

David Bolinger: asks what is the challenge again with the telephone lines?

Mr. Chauki: Southwestern Bell has overhead line and it needs to be moved because of the widening of the street and Southwestern Bell asked for \$45,000 - \$50,000 to move the line He states that they would do it for the City for free if the City asked for it, but they will not do it for developers or private citizens. Mr. Chauki states he is widening the road as the City has asked, but the cost of moving the telephone lines is too much.

Karen Inlow: asks if Tontitown Plaza Subdivision is only widening one side of the street and within a year the City would have to build the whole street and pay for the other half of the street when they widen it.

Tommy Granata: have you taken the intuitive to ask the City to ask the telephone company to move their line?

Mr. Chauki: We had talked to Rick Williams, but don't believe he was able to persuade them.

Tommy Granata: believes that City Council or mayor would have to act on that and asks Mr. Gilbert for comments.

David Gilbert: not certain that there are provisions in the Code that the City can do this. Gilbert gives details of City Code 152-55 and gives examples.

Mr. Chauki: states he can give bond to the City or he can come back to finish street—that way Southwestern Bell has no excuse to move the lines for the City.

Karen Inlow: asks if we can table this till someone in the City Administration talks to Southwestern Bell.

Tommy Granata: asks Mr. Chauki if he wants to approach City Council to ask Southwestern Bell to move their lines. That action would table it to a later date.

Mr. Chauki: asks if he has Planning Commission's permission to approach City Council he would be satisfied.

Jeff Hawkins: was this requirement not part of preliminary plat approval?

Mr. Chauki: yes

Jeff Hawkins: based on previous planning commission actions this improvement is require for the condition of final plat. If he cashes the bond and posts it, this obligates the City to finish part of a project that has already been previously approved.

Mr. Chauki: again states problem with widening the road and cost of moving the telephone lines.

Tommy Granata: states again that you may approach City Council, but Tontitown Plaza Subdivision is still obligated to do the street improvements, but maybe at a lesser cost.

David Gilbert: states that utility companies at Tach Review clearly state that moving or relocating utilities or existing facilities is at the developer's expense.

J.R. Carroll: states that we have to worry about prescriptive easements and utility company filing suite for Emanate Domain of said easements. Mr. Carroll states he thinks best way is to table this issue and get confirmation from the City to the utility company and ask the utility company what their position is on it.

Mr. Chauki: withdraws and says he will approach City Council.

Amendments to City Code: Section: 153-045, 153-063, 153-125

Jeff Hawkins: discusses the problems with these sections and inconsistencies. Recommends that the dead line for submittal dates be changed to the first of the month instead of the 20th of the month. It is easier at the administrative stand point if they have everything turned in by the first of the month so they can make the fourth Tuesday Planning Commission meeting.

Jeff Hawkins: discusses problems with inconsistencies regarding notification requirements for rezones, variances, and conditional uses. Requests changes be maid to the notification of property owners for uniformity. Suggest to Planning Commission members to consider placing notification signs up for public hearings along the proposed applicant's property. Recommends notification of property owners within 200 feet of said proposed location.

Jeff Hawkins: discusses problems with the City Ordinances being scattered and the need to have the City Ordinances being codified. Recommends taking fee ordinance out of current ordinance and placing them where they need to belong and be recodified.

Jeff Hawkins: discusses amendments to zoning ordinance and reasons why it needs to be modified. Recommends to Planning Commission to consider the thought about making changes to zoning ordinances cause sometimes there maybe the need to speed up the process and bypass Planning Commission and notifications to go straight to the City Council.

Jeff Hawkins: discusses new annexed lands and what the zoning should be until an evaluation is made of the area. It would be nonconforming until it is zoned. Asks Planning Commission to give consideration to it.

Tommy Granata: asks public for comments.

Citizen: asks about Potter property and asks if he will be able to continue what he is doing since it has been annexed. If he is now agricultural will he be able to develop commercial?

Jeff Hawkins: his understanding of the ordinances is that he would have to apply to be commercial.

Citizen: asks if there is any ordinance in place if someone is building prior to annexation with substantial work done to it, would they be able to continue their development.

Would it be grandfathered in?

Jeff Hawkins: if there is substantial completion of it could be possible depending on the percentage that is completed.

J.R. Carroll: gives examples of previous state trials regarding same matter.

Ken Robertson: would like to see a time limit on evaluating zoning of annexed lands.

Tommy Granata: would like motion on amendments to City Code: Section: 153-045, 153-063, 153-125.

Karen Inlow: would like to see the 200 foot notification for public hearing and notices; and move said recommendations to City Council.

Karen Inlow: following amendments to be amended: 60day limit to annexed lands to adopted as R-E, submittal date will be changed to 1st day of the month preceding the Planning Commission meeting, provide provisions for exceptional circumstances to go to City Council by majority vote of Planning Commission, and 200 foot notification be made to all public hearing and notices in addition to the uses of signs, amend fee ordinance to be codified in proper place.

Motion made by Karen Inlow to amended City Ordinances, seconded by Jerome Fantinel

Call to Order:

Ranalli- yes, Young- yes, Inlow- yes Bolinger- yes, Fantinel- yes

Motion approved

Recommending Zoning of Lands Pending Annexation

Jeff Hawkins: hearing needs to be held and recommendation to Planning Commission before Council can act on rezoning of annexed lands. Discusses need to rezone annexed lands and recommends pending annexed lands be zoned R-E and an evaluation be made later to give proper classification of zoning to those areas.

Tommy Granata: asks Planning Commission members for comments.

Tommy Granata: asks for public comments.

Debbie Porter: lives on Wildcat and Floyd discusses her concerns and covenants that are currently in place for that area.

Tommy Granata: asks again for public comments.

Anthony Dawson: also lives next to Mrs. Porter and seconds her comments.

Tommy Granata: asks Planning Commission member's comments.

Tommy Granata: recommends issue of annexed areas and zoning go to City Council. Recommends being tabled to further research zoning of that area.

Amendments to City Code: Chapter 152 Subdivisions: Regarding Fees, Definition, Lot Splits, Required Improvements, Survey Standards, and Procedures

Jeff Hawkins: again reiterates what was previously said regarding changing of Subdivision Regulations and Ordinance regarding fees. Discusses Survey Standards for Subdivision Standards. States change that needs to be made in Section 4A.

David Gilbert indicated that in Section 4, paragraph 4, the "National Geodetic Vertical Datum, 1988 Adjustment (NGVD88)" is referenced....he says the official name of the current national standard is "North American Vertical Datum of 1988 (NAVD88)". Recommends amending this section.

Tommy Granata: asks for motion

Ron Young: motion to make changes to the minimum survey standards as mentioned by Mr. Gilbert, seconded by David Bolinger

Call to Order:

Young- yes, Inlow- yes, Bolinger- yes, Fantinel- yes, Ranalli- yes.

Motion approved

Subdivision Regulations Amendments:

Jeff Hawkins: discusses inconsistencies that need to be looked at with minimum street standards and lot splits and definitions. Discusses what is currently in place and gives suggestions to what it should be changed to. Gives of current examples of lot splits that are trying to get approval that don't fall under approval under current Ordinance regulations.

Motion to Recodified and Reenacted Fee Ordinance 2006-10-273 to be put in proper place.

Karen Inlow motions to make changes, seconded by Norbert Ranalli.

Call to Order:

Inlow- yes, Bolinger- yes, Fantinel- yes, Ranalli- yes, Young- yes

Motion approved

Amendments to street and sidewalks: Street Standards

Jeff Hawkins: discusses inconsistencies and problems with the Street and Sidewalk Standards with the current Subdivision Regulations. Recommends adoption of the

Resolutions be adopted as Ordinance. Also discusses incremental improvements to streets instead of doing it all at once.

David Gilbert: also discusses inconsistencies with the language with the Minimum Street Standards and Subdivision Regulation Standards and making about incremental improvements to streets.

Tommy Granata: calls motion to approve

David Bolinger motions to amend Chapter 90 as stated by David Gilbert, seconded by Karen Inlow

Call to Order:

Bolinger- yes, Fantinel- yes, Ranalli- yes, Young- yes, Inlow- yes

Motion approved

Planning Commission Vice-Chairman Vacancy:

Tommy Granata: discusses Planning Commission Vice-Chairman vacancy and nominates David Bolinger; seconded by Jerome Fantinel.

Call to Order:

Fantinel- yes, Ranalli- yes, Young- yes, Inlow- yes, Bolinger- abstain

David Bolinger now Vice-Chairman of Planning Commission

Planning Commission Vacancy Nominations:

Tommy Granata: Discusses the other vacancy for the Planning Commission and takes recommendation from new members.

Karen Inlow: Nominates Julie Bolin (Zulpo)

Tommy Granata: Nominates Richard Bundrick

Planning Commission recommends recommendations of nominees to the City Council for approval.

Announcement:

AEP:

Tommy Granata:

States that the AEP meeting that was to be held next Tuesday meeting is moved indefinitely.

Comments:

Adjourn

Tommy Granata: motion to adjourn; all in favor say “Aye”

Fantinel- aye, Ranalli- aye, Young- aye, Inlow- aye, Bolinger- aye