

**City of Tontitown**  
**Planning Commission & Board of Zoning Adjustment (BZA)**  
**Meeting Minutes**  
**2007-02-27**

Meeting called to order at 7:02 p.m. by Chairman Tommy Granata

**Roll Call:**

Tommy Granata –Present  
David Bolinger –Present  
Karen Inlow –Present  
Jerome Fantinel –Present  
Norbert Ranalli –Present  
Julie Zulpo-Bowling –Present

Also in attendance:

Brandy McAdoo –Planning & Zoning Clerk  
JR Carroll –City Attorney (present for Mark Dossett)

**Approval of the Minutes for 2006-12-19:**

Motion to approve the minutes as presented by Karen Inlow  
Seconded by David Bolinger

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel -yes

Motion passed unanimously

**Approval of the Minutes for 2007-01-23:**

Motion to approve the minutes as presented by Karen Inlow  
Seconded by Norbert Ranalli

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel -yes

Motion passed unanimously

**Old Business:**

**New Business:**

### **Tontitown Plaza-Final Plat:**

Shawki Almadhoun with Northstar Engineering asked for this item to be tabled until the next meeting. Mr. Harrison asked Mr. Gilbert if he wanted to discuss the issues with the dirt piles at the development. Mr. Gilbert stated that he would like to discuss that item as well as a couple of issues in regards to sidewalks inside the subdivision and also the bonding around the Mantegani improvements. He would like to get it discussed now so that the engineers can get some clear direction as how to proceed before next month's meeting. Drainage issues need to be discussed also.

Mr. Harrison and Mr. Gilbert went to the site on February 20<sup>th</sup> to do an inspection preparing to do the final plat consideration. They did note some things that the engineers will need to address. A couple of the issues have to do with grading on the site. The owner has left some rather significant amounts of dirt and soil on the site in different locations. When they stripped off to build the streets they piled this up on the side and it hasn't been removed. EGIS' recommendation as the City engineers is if the Commission desires to leave these piles of dirt that there has to be grass planted on them, otherwise there will be erosion control issues that will cause problems.

The second issue has to do with the drainage in the southeast corner of the site. The grading plan had shown that there will be fill placed on that lot adjacent to the structure that is called a double spreader. It appears to be constructed properly and working properly, the issue is that there is sand and water adjacent to the level spreader. This water does have some green slime growing on top of it so apparently it is stagnant and has been there for quite some time. This poses a mosquito hazard as well as the possibility of some odor coming from it as the water stagnates. EGIS has recommended that that be taken care of and that fill be placed according to the construction drawings prior to the Commission voting on this project. These two issues were the major issues that EGIS had with the project. Northstar stated that they agreed with the comments from EGIS. They stated that the project was designed for septic systems and now they have planned for sewer to come through it. They cannot disturb anything on the lots in septic areas although they know that is going to be their sewer at some point. That is one of the reasons they are not doing a whole lot of grading on these lots. If the Commission desires them to go ahead and do grading on the lots they will go ahead and do it then hopefully the sewer will be coming in around June or July.

On the stock piles of soil they do plan to seed them. Their reason why that soil is still there is that the developer is going to build the lots and they want to use that soil to grade the top 6-8" on the lots. If they are moved now they will have to be moved back in. Northstar asked to be able to keep them until the construction begins and reseed them now to minimize any erosion on them. The pond in the back will be filled. Northstar stated that they will get with the developer and see if they can move the dirt piles. The bonds for the sidewalks will be provided if the Commission allows the use of bonds for that. The widening and improvement of the street for the developments side of the road will not help the road due to it only being half of the road. The engineer is suggesting that a bond be put up for their part of that repair until the City can budget the money to

fix the other half or they can give the money to the City until such time as the City can allot monies to fix the other half.

The level spreader that the developer has put out there is for the US Fish & Wildlife because they demanded it to keep some water in the spreader for habitat. The developer complied with that request.

Motion to table Tontitown Plaza-Final Plat by Karen Inlow  
Seconded by Julie Zulpo-Bowling

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel -yes

Motion passed unanimously

**M & M Tile-PUD:**

Charles King with Project Design Consultants represented M & M Tile for a PUD. Large scale-PUD mainly represents an expansion of a building for warehousing and storage as pertaining to M & M Tile in their adjacent area. They have applied at different times for rezoning and large scale, and after numerous discussions, have come back with a PUD. This is one of the first PUD's that the City has looked at so there are a few things that need to be discussed and worked through.

Mr. Gilbert gave background on this project. He states that it is an addition to a storage warehouse unit and M & M Tile is a separate structure from that. Mr. Mussino and his professional staff have been back and forth with the City trying to work out something. Initially there were some issues with an expansion to the existing building in that it would have crossed over a threshold for fire protection and that was going to be very difficult to do and still meet the Life Safety Code. This brought them to a different building configuration. In the mean time, the Chapter 153 was amended, adopted and then rescinded and then adopted again. In its current form, Chapter 153 does not allow for warehousing in a Commercial zone. So Mr. Mussino brought in a rezoning request to rezone that was considered by the Commission and declined because it opened the door to too many veins. In looking through the code, EGIS believes that the PUD will allow for this use in this area should the Commission approve the planned unit development. The basic reason behind that is in the PUD all uses are negotiated between the owner, the Commission and ultimately the City Council. What is negotiated for this parcel will be unique to it. The Commission will not be renegotiating the PUD's throughout the town, just for this particular tract of land.

Mr. King brought to the Commission in the plans a set of proposed use units that is in the table on the plans. These items should be discussed in order for them to have some direction as to what use units the Commission will permit in this zone that the Commission is creating as part of this process. The applicant has requested that the requirements for improvements to Pianalto Road be waived. This needs to be discussed as to whether it will be allowed or not. The building elevations in a PUD are typically part of the negotiations as far as what will be allowed and what will not. These will also

be review with Mr. King and Mr. Mussino to give them some direction as to what the Commission would like to approve.

There are still a number of issues from a paperwork stand point where this project is not quite ready for the Commission's vote tonight. One thing in particular that has been being worked on for several months with the consultant and Mr. Mussino are the idea that this parcel is in total comprises about six different tracts of land. In some case there are lot lines running through existing buildings, in other case there are lot lines in places where you can't put another building where they want to put it until this is resolved. What EGIS has recommended and what Mr. King and his staff are working on is to re-plat these six parcels into one parcel. It was thought to go with two parcels; one with C-2 zoning and the other with the PUD zoning. However, the existing building currently utilizes a septic system which will have to be relocated as part of this construction. The proposal is to relocate it onto the northwest corner of the PUD parcel. If two tracts of land are created, there will be one lot using a septic system on another lot that is highly undesirable and in most cases the Health Department will not permit that although there probably exceptions to that. EGIS doesn't think that is a position that the Commission wants to create. The idea that they are looking at is one tract of land that would have two different zonings. The C-2 zoning is not part of the PUD process. That is a separate rezoning application for consideration. Since this is still six parcels of land, EGIS cannot recommend the Commission to act on this issue at this meeting. There are other issues in the letter provided to the Commission by EGIS that will need to be cleaned up before Mr. Gilbert would give a recommendation of approval to the Commission. Mr. Gilbert stated that the use units and improvements to Pianalto Road would be good to go over so that they can have some direction to be ready by next months meeting.

Mr. Bolinger stated that he thought the issue of the ownership of the parcels should be resolved first. Mr. Gilbert stated that issue will have to be resolved before he could recommend that the Commission consider this for approval.

There was discussion on use units. The Commission went through the list of use units on the plans.

Motion to take out the duplex, triplex, four-plex and keep the animal care general, animal care limited, automated teller machine and bank and financial institution by David Bolinger

Seconded by Julie Zulpo-Bowling

Motion to amend the previous motion to allow only the permitted uses of warehousing, retail services, construction sales and services and office general by David Bolinger

Seconded by Karen Inlow

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel –yes

Motion passed unanimously.

Builder is requesting a waiver of the required improvements to Pianalto Road. The reason stated in the letter is “due to the City’s requirements”. Mr. King understands that the street is on the City’s Master Street Plan. If they do curb and gutter as proposed on through there, the existing curb and gutter would go down through that street and they would have to reconfigure the parking lot, which has a rolled curb on it right now, and then go on out to an area that’s 17 ½ ‘ wide. The road goes 600’ to a “T” intersection. This street will become a major street in the future due to the interchange that has been proposed.

Motion requesting the approval of the waiver of improvements to North Pianalto Road by David Bolinger  
Seconded by Norbert Ranalli

**Vote:**

Bolinger –no, Inlow –no, Ranalli –no, Zulpo-Bowling –no, Fantinel -no

Motion failed.

The building elevations shown on the plans currently do not comply with what the current building elevation requirements ask for in Chapter 150. They would need to have natural materials on the front and no more than 50% on the side elevations.

Motion to make the new building elevations to be constructed under the existing code requirements and the two existing buildings be grandfathered in as they are by David Bolinger  
Seconded by Karen Inlow

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel –yes

Motion passed unanimously.

Motion to table the M & M Tile PUD by David Bolinger  
Seconded by Norbert Ranalli

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel –yes

Motion passed unanimously.

### **Off the Rocks Sports Bar-Conditional Use:**

Mr. Greg Vickers represented Off the Rocks Sport Bar. He handed out booklets that showed the plans for the building. They are a sports bar and grill. There has been some confusion as to what type of building they are. They went around Northwest Arkansas to other sports bars and are trying to put the best of what they found into one building. There will be dart boards, pool tables and big screen TV's.

There will be a kitchen put in but they will be serving an appetizer type menu. This is planned on being a quality type entertaining facility. The menu provided was minimal at this time but they are working on getting more items on the menu, although, they still want to stick with a sports bar type menu.

The architect is looking at the issues with coming up to code. Mr. Vickers stated that they are more than happy to bring everything up to code. Mr. Hawkins stated that when Mr. Mick Frus was here, when this first came up, he needed more information as to what type of facility this was. Whether it was a bar or whether it was more of a restaurant. Mr. Frus had the discretion by ordinance to have this come before the Commission as a conditional use because of the lack of specific type of facility and he exercised it. This is why Off the Rocks is before the Commission tonight.

Mr. Carroll stated that the Commission needs to have more of an idea as to what this facility is going to be before they can vote. Mr. Hawkins stated that there would also need to be notification of all property owners within 200' of the facility and he wasn't sure that this was done. Mr. Vickers had thought that the ABC had notified the adjacent property owners but Mr. Carroll told him that the ABC notified only about their permit only; not the requirement held by the City.

Motion to table Off the Rocks Sports Bar-Conditional Use by David Bolinger  
Seconded by Karen Inlow

### **Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel –yes

Motion passed unanimously.

### **Cell Phone Tower-Amendment to the Zoning Ordinance:**

Mr. Carroll stated that this ordinance stated most cities in Northwest Arkansas have ordinances that make the applicant provide the City with certain requirements so the city will know better what is going on. As Tontitown has started being a hotbed for cell towers between Springdale and Siloam Springs, the City Council thought that it would be best to have an ordinance to regulate cell phone towers. If the City Council approves this it will not be a conditional use anymore, it will be a use permitted. It was discussed to change the footage requirements in section B to be changed to 195' since there is already a cell tower that has been approved that is more than 150' as stated currently in the proposed ordinance.

Mr. Hawkins stated that communications towers are already in the City's zoning ordinance. It is a permitted use in Industrial zones and a conditional use in most other zones. Mr. Granata asked if there were any public comments.

Mr. Jason Steele with Steele Communications came to the podium to speak. He states that this ordinance doesn't require the painting but that it leaves it up to the Commission on a case by case basis. He felt that the site line requirements are nearly impossible and would like for the Commission to leave those requirements out. The part of the ordinance that pertains to the abandonment of towers, he stated that if a tower lost its carriers whose to say 6 months down the road another carrier would want to come to the area and be put on that tower. Mr. Carroll thought that was a vital part of the ordinance.

Motion to approve as presented with the footage change to the height of the towers by David Bolinger  
Seconded by Julie Zulpo-Bowling

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel –yes

Motion passed unanimously.

Mr. Granata stated that Mr. Jason Ingalls with the Palisades at Tontitown was present and would like to say something. Mr. Ingalls stated that he was here at tonight's meeting to take any comments that the Commission may have and that they realized that the Commission couldn't vote on anything. They presented a Preliminary Plat to the Commission to obtain any comments that way when they do come before the Commission there wouldn't be any questions in mind that would hold it up. On the plat they were asked to show the entire development as a whole. At this time, they are just asking for Phase 2 to be approved in a Preliminary Plat stage. This area is zoned as C-2 with the remainder of the property zoned as R-3.

Since the Commission only meets once a month, Mr. Ingalls asked that the Commission allow its engineering staff to start reviewing their construction drawings because what they are looking at is being put off a whole month and the typical process is that until the plat is approved, the construction drawings can't be reviewed. Mr. Bolinger stated that they will be circumventing the process that is set up for this type of thing if they allow them to do this. He asked Mr. Ingalls why the Commission should allow them to do this. Shawki with Northstar stated that it would be easier for everyone involved if they gave the construction drawings with the plat. Mr. Bolinger asked if this had been through TAC review and it had.

The engineers stated that they tried to make the revisions to the plans and get them in to the City for review and didn't leave enough time for the City to review them when they could have come before the Commission and get it approved with conditions. They want to be able to get the construction plans in to the Commission so that they could come in to next months meeting and get approval for their preliminary.

EGIS issued comments on February 25<sup>th</sup> on the preliminary plat and on the drainage report on February 15<sup>th</sup>. In addition, yesterday they prepared a letter that was

sent out today. Mr. Gilbert stated that there were still several issues that needed to be addressed before this can be considered. There are some issues with the legal descriptions. There is a plat with Phase 1 and a Phase 2 but do not know which one is going when. Usually Phase 1 is built before Phase 2. When this was reviewed on February 5<sup>th</sup>, there were the nine commercial lots that are now being shown as Phase 1 and Phase 2 which was at that point shown as Phase 1 and then the remainder of the property was shown simply as remainder. One of the issues that EGIS thinks we run into with that is that it creates a lot which does not front for its full width on a public street and EGIS questions the legality of that.

EGIS is not sure that this can be approved on the basis of Phase 1 and Phase 2. Mr. Gilbert is thinking that the property is going to need to be considered in total all Phases for the preliminary plat part of that. Should Mr. Gray come back after he builds Phase 1 and Phase 2 and decide that he wants to alter Phase 3 or 5 or 6 he can come back and file a revised preliminary plat. If he does that, he will not have done anymore work than what he is talking about because if the Commission only approves Phase 1 and Phase 2 then he has no legal preliminary plat for Phases 3 through 6 so he would have to come back for plat on those anyway. Mr. Gilbert thinks that with Tontitown's requirement of full frontage on a public street, that this needs to be considered all Phases at once. The Master Street Plan shows an extension of Sbanotto Avenue and the center line of that extension would basically lie along the fence line which forms the southern boundary of this whole tract. There would be nothing wrong if you would consider allowing Sbanotto to deviate up into the property and that is something that the Commission could consider.

The Commission would need to consider the impact on the adjacent property owner because now they won't have that public street there. Sbanotto will have to exit the southwest corner of this property. Currently it is showing a bulb there and it doesn't go through and the MSP does show Sbanotto passing through the property not just dead ending in the property. Mr. Granata stated that at the same time Liberty up on the north end of the property does the same thing. It deviates from the property boundary and comes out. As far as access out on Maestri Road, Mr. Gilbert doesn't think that this poses a problem from that particular aspect of it because there isn't anything proposed yet. There are just some checklist issues that need to be addressed and they are things that are required in the code and typically they are resolved before the Commission considers one of these preliminary plats.

Another major issue, Mr. Gilbert believes, is that the applicant is not showing any improvements to Maestri Road. He shows leaving it as it is and building culverts across his driveways. Typically what is required of subdivisions is that the adjacent street is to be improved along with curb gutter drainage and those sorts of things. They are showing a sidewalk but they aren't showing the sidewalk on the right-of-way they are showing the sidewalk in an easement outside of the right-of-way. That would work but it would be a different condition. There are a few issues with the drainage report that has to be resolved.

Mr. Almadhoun stated that Maestri Road (Highway 112) is a state highway and he can't touch a state highway. He didn't know how to go about improving a state highway when he is not allowed to do anything to it. He asked the Commission to just look at the commercial zonings and not the entire property. He also stated that on

Sbanotto Road he agreed that that MSP showed it stubbing out but the reason they brought the road inside was that they only have control of one side of it. If the Commission wants it to run along the fence line he can only give them half a road because he only controls half the line. He just wants feed back form the Commission so that next month hopefully they will have all of the issues ironed out.

**Announcements:**

Mr. Granata stated that the Commission needed to remind the City Council that with the resignation of Ron Young that there is a vacancy and to appoint the Commission another member.

Motion to adjourn made by David Bolinger  
Seconded by Julie Zulpo-Bowling

**Vote:**

Bolinger –yes, Inlow –yes, Ranalli –yes, Zulpo-Bowling –yes, Fantinel -yes

Motion passed unanimously

**Adjournment**