



CITY OF TONTITOWN PLANNING OFFICE

201 E. Henri de Tonti Blvd.
479-361-2700
planning@tontitownar.gov

Meeting: **June 22, 2021**
Project: **Venetto Subdivision**
Planner: Courtney McNair, Garver

AGENDA ITEM

7

WAIVER REQUEST

415 N. Mantegani Road
Parcel # 830-37688-000

SUMMARY: Venetto Subdivision is requesting Preliminary Subdivision Plat approval for 64 single-family residential lots, and two (2) detention lots on 19.85 acres of land. A waiver has been requested to allow the developer to not construct the extension of Sbanotto Ave./Bariola along the southern property line of this site.

CURRENT ZONING: **R-3** - Single-Family Residential - 9,600 square foot minimum lot size, maximum 3 units per acre.

PROPOSED ZONING: **R-4** -Single-Family Residential – 8,000 square foot minimum lot size, maximum 4 units per acre.

If this rezoning has been approved by the Planning Commission, then it will need to also be approved by the City Council before the zoning is officially changed to R-4.

CITY WARD: 2-Arthur Penzo and Larry Ardemagni

FLOODPLAIN: No

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water- There is an existing 8-inch water line that is along the west side of N. Mantegani Road that borders the subject property and an 8-inch water line that extends to the east along the north side of Bariola/Sbanotto.

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer- There is sewer approx. 615 feet to the south which is planned to be extended to service this development.

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

PROJECT SYNOPSIS:

The owner/applicant for this project is NORRHO, LLC. The property is located just north of the intersection of Mantegani Road and Sbanotto Ave. / Bariola Road, on the west side of Mantegani Road. There is an existing residence and barn structure on site. An existing driveway, providing access for a neighboring property, is located near the north property line. The remainder of the site is heavily wooded.

The applicant is requesting to change the zoning from R3 to R4, Preliminary Plat approval, and this waiver request.

The waiver request is related to the required extension of the Collector Road, Sbanotto Ave. / Bariola.

The Master Street Plan shows this road being extended along the southern boarder of the project site. The applicant will be responsible for constructing half (minimum 20 feet wide due to fire code) of the road section. Collectors Streets require a 70' of Right-of-Way (ROW), and a six-foot (6') sidewalk on one side and twelve-foot (12') trail on the other side, with seven (7') of green space separation on both the sidewalk and trail side of the street.

The applicant is asking to only dedicate their half of the ROW (35') along the south property line. They are requesting a waiver from the actual construction of the road improvements.

According to the applicant's letter, they are requesting this waiver based on the following:

- "A. A southern right of way will be required which we have no control over, the peculiar part of the land is that the topography will dictate that to build the road in accordance with the master street plan and the specifications of the Tontitown road design would involve the acquisition of the southern right of way from the adjoining landowner in order to accomplish this.
- B. Under the literal interpretation of the ordinance, it would deprive not the applicant but the southern landowner the enjoyment of their property and require that their property be acquisition for the construction of the road.
- C. We do not have control over the southern right of way, only the city can acquire this, which they have not at this time. Therefore, we are asking for a waiver for the construction of the road and only dedicate the right of way necessary for the road for future construction."

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.

Section 152.026 Waivers (B)

(5) **No waiver shall be granted unless the Planning Commission finds all of the following:**

(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 the reasonable use of this land.

Staff's Response: Staff finds no special circumstances that would deprive this applicant of any reasonable use of land.

The requirement to provide the construction of the road extension is one that has been required for similar projects.

Rarely is the entire required ROW located on the subject property. In the future, if the property to the south is developed, the other portion of the road will be constructed. If this adjacent property does not develop, the city can pursue additional ROW to complete the remainder of the road construction.

The city will require curb & gutter, and sidewalk improvements only on the side of the road located on the subject property. Engineering plans will need to be reviewed to ensure that the road is designed in order not to cause drainage concerns for the neighboring property.

The applicant has stated a concern that the topography will require that grading occur on the neighboring property. This has not been demonstrated with engineering drawings to show there is no possible solution. In order for the applicant to further pursue this reasoning, additional information will need to be submitted for review by the City's Engineer.

(b) That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.

Staff's Response: The waiver is not necessary for the preservation of a substantial property right of the applicant.

No ROW outside of the required 35' on the applicant's side of the road is being required. The applicant will be allowed to utilize this road for access to this development. Although it is not preferred, direct driveway access from individual residential lots is allowed from collector streets within Tontitown.

(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.

Staff's Response: The requested waiver would not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

(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.

Staff's Response: This waiver would affect future development and prevent the orderly subdivision of other land in the area.

The Master Street plan was put in place to ensure future connectivity in the City of Tontitown. As development occurs, the planned streets are intended to be included as part of the development to provide for this connectivity. Other developments are also required to construct their portion of streets that are shown on the Master Street Plan.

It should be noted that alternative solutions, with an offset location, have been discussed with staff, and the applicant does not wish to pursue that alternative at the present time.

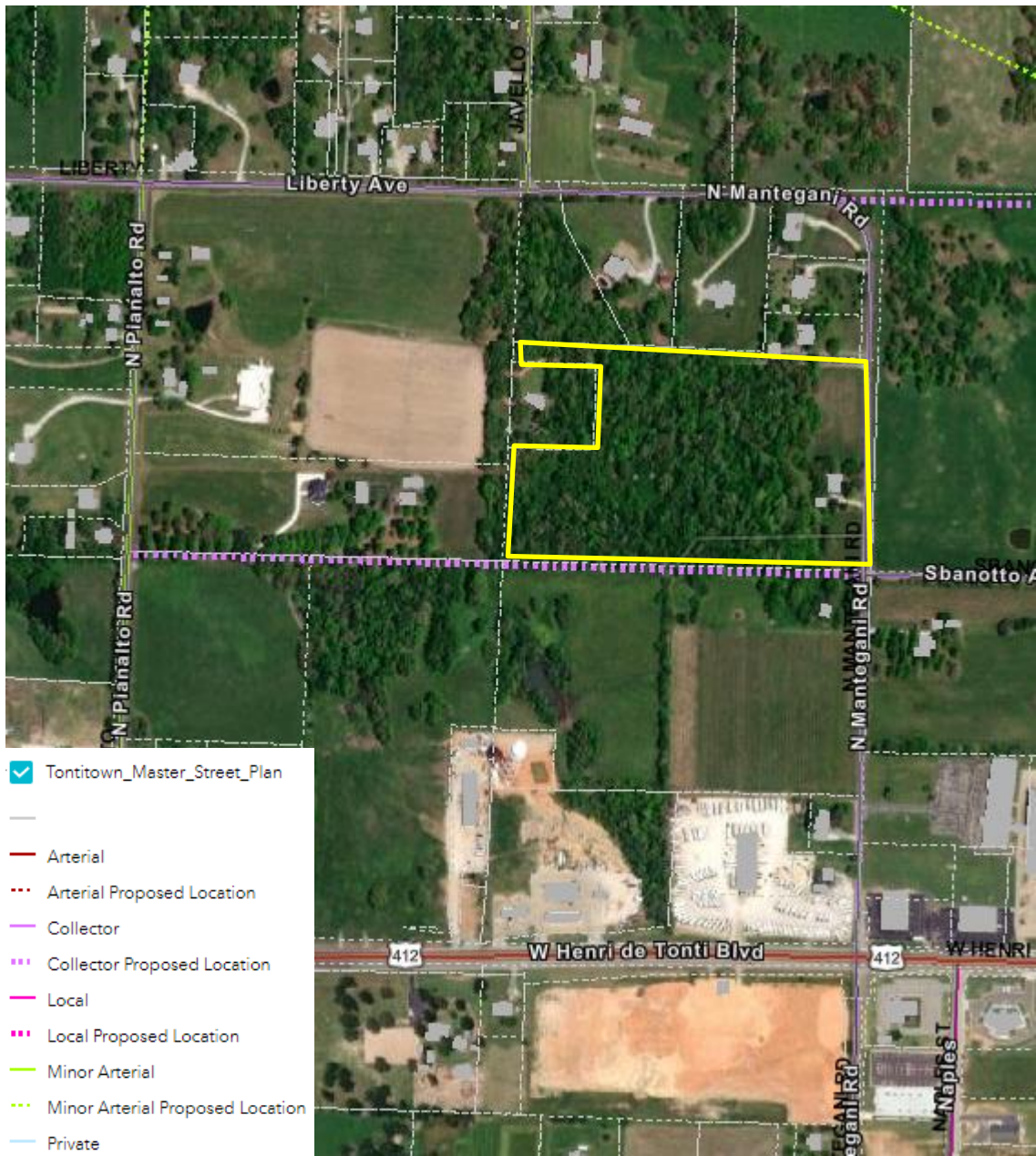
STAFF RECOMMENDATION:

Staff finds that allowing this waiver could set a precedent and will impact the future connectivity in the City of Tontitown if granted.

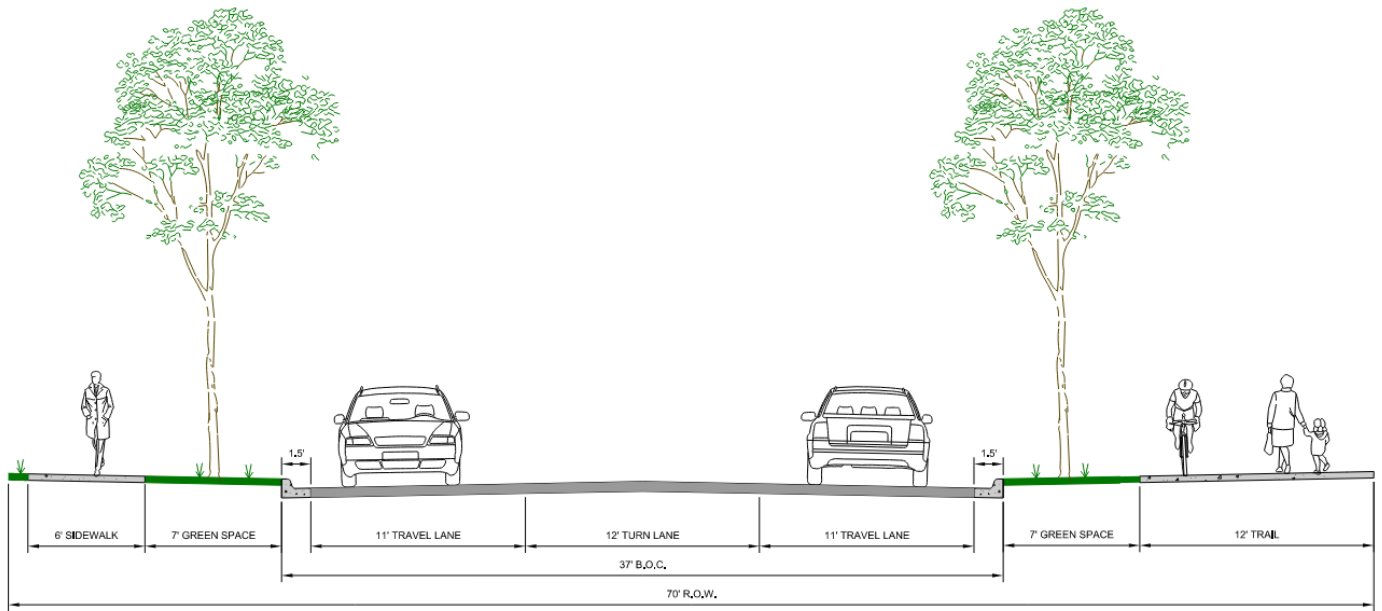
Provisions can be made to reduce greenspace, and/or the trail section as the developer will be required to provide 20 feet of this street (instead of the 18.5 feet that comprises half of the typical Collector Street section) due to fire code, and in order to accommodate drainage and grading that will be necessary as part of the construction.

Staff recommends DENIAL of this requested waiver.

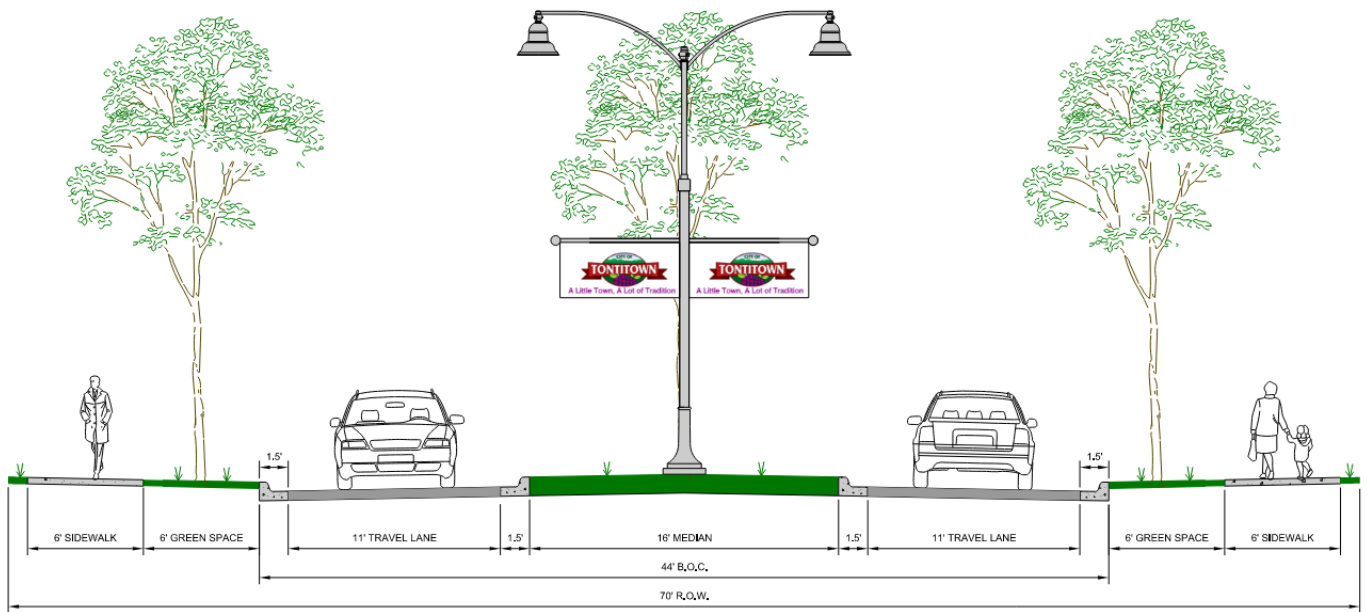
If the applicant would like to provide more information regarding the drainage concern, they may request this waiver be tabled, and submit that information to the city for review. Provisions will need to be considered to ensure that the future connectivity of this area will not be impacted if the applicant submits a revision.



COLLECTOR ROADWAY WITH TRAIL



COLLECTOR BOULEVARD



June 15, 2021

Ms. Renee Biby
Planning Official
City of Tontitown
201 East Henri De Tonti
Tontitown, AR 72770

Re: Venetto Subdivision – Kinax Construction
Waiver Application
Tontitown, Arkansas

Dear Ms. Biby:

On behalf of our client, we are submitting application materials for a waiver in accordance with the master street plan for Vientto Subdivision regarding proposed collector street along the southern border of the property. This letter is intended to serve as the narrative letter required by the checklist included in the waiver application.

- A. A southern right of way will be required which we have no control over, the peculiar part of the land is that the topography will dictate that to build the road in accordance with the master street plan and the specifications of the Tontitown road design would involve the acquisition of the southern right of way from the adjoining landowner in order to accomplish this.
- B. Under the literal interpretation of the ordinance, it would deprive not the applicant but the southern landowner the enjoyment of their property and require that their property be acquisition for the construction of the road.
- C. We do not have control over the southern right of way, only the city can acquire this, which they have not at this time. Therefore, we are asking for a waiver for the construction of the road and only dedicate the right of way necessary for the road for future construction.

Thank you for your consideration of this application, please contact our office with any comments or questions that you may have.

Sincerely,



Justin Mitchell, E.I.

Encl;

1. BASIS OF BEARING FOR THIS SURVEY: ARKANSAS STATE PLANE
NAD83 NORTH GRID BASIS OF BEARING FOR THIS SURVEY:
ARKANSAS STATE PLANE NAD83 NORTH ZONE 0301 GRID
CONVERGENCE ANGLE: -01°18'44" COMBINED SCALED
FACTOR: 0.99993272 N:680530.6 E:646916.1










2. VERTICAL DATUM: NAVD88 COMPUTED USING OPUS NETWORK SOLUTION, NAVD88 (COMPUTED USING GEIOD18)

3. THE LOCATIONS OF THE UTILITY LINES ON THIS SURVEY WERE DERIVED FROM EVIDENCE ON THE SURFACE OF THE PROPERTY. UTILITY LOCATIONS ON THIS MAP ARE FOR GENERAL REFERENCE THE EXACT LOCATION MAY VARY. THE PRESENCE OF ADDITIONAL UTILITY LINES ON THE PROPERTY IS A POSSIBILITY. THEREFORE THIS FIRM ADVISES TO HAVE ANY AND ALL UTILITY LOCATIONS CONFIRMED AND/OR LOCATED IN THE EVENT THEIR EXACT LOCATION IS NEEDED.

415 N. MANTEGANTI ROAD
TONTITOWN, ARKANSAS

500 -17N-31W-0-02-410-72-1546

_____	_____	PROPERTY BOUNDARY
_____	_____	SURVEYED LINES
_____ RW _____	RW _____	RIGHT OF WAY
_____ G _____	G _____	GAS LINE
_____ T _____	T _____	TELEPHONE
_____	_____	ROAD CENTER LINE
_____ X _____	X _____	WIRE / CHAINLINK FENCE
_____ W _____	W _____	WATER LINE
_____ P _____	P _____	OVERHEAD POWERLINE
_____ SS _____ SS _____ SS		SANITARY SEWER SERVICE
_____ FM _____	FM _____	SEWER FORCEMAIN
_____	_____	WATER SERVICE LINE

	TELEPHONE PEDISTAL		COMPUTED CORNER
	GUY WIRE		FOUND MONUMENT (LABELED)
	POWER POLE		PROPOSED FIRE HYDRANT
	PROPOSED WATER METER BOX		PROPOSED CATCH BASIN
	PROPOSED SEWER BOX		

1. PROJECT REQUESTED ZONE R-4

2. SETBACK: FRONT - 25'
SIDE - 7' *
SIDE STREET - 20'
REAR - 15' *

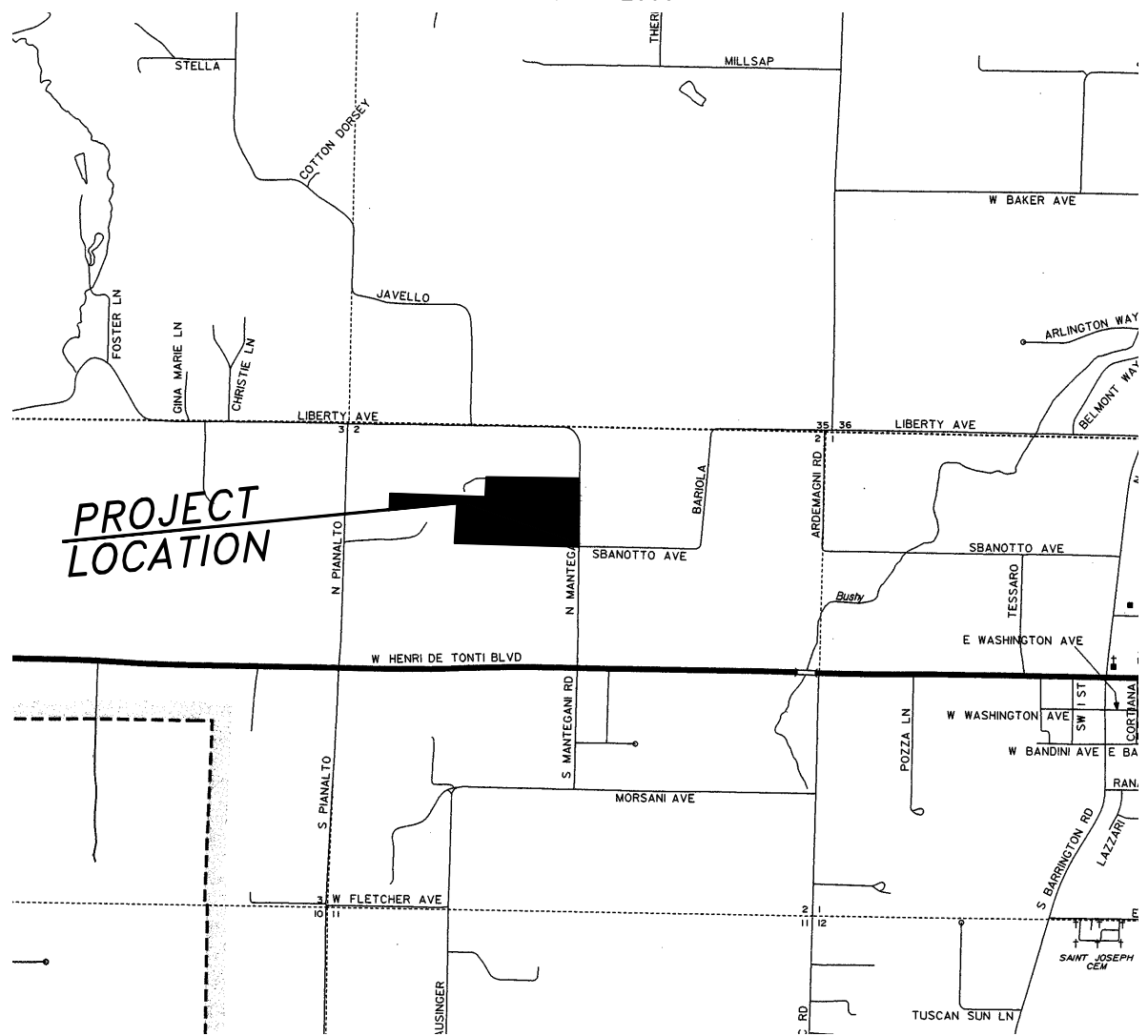
* UNLESS OTHERWISE SHOWN

4. LIGHT POLES SHALL BE PLACED AT ALL INTERSECTIONS AND SPACED 300' MAXIMUM THROUGHOUT THE DEVELOPMENT OR AS PER TONTIVTON REQUIREMENTS. ALL STREET LIGHTING SHALL MEET CITY OF TONTIVTON SPECIFICATIONS.
5. LOT CORNER RADI ARE TYPICAL 36' UNLESS OTHERWISE NOTED.
6. STORM DRAINAGE PIPES UNDER PROPOSED STREETS TO BE R.C.P., STORM DRAINAGE OUTSIDE STREET LIMITS SHALL BE ADS-N12
7. ALL HOUSE SLABS MINIMUM FLOOR ELEVATIONS SHALL BE MINIMUM OF 6" ABOVE THE TOP OF CURB ON THE HIGH SIDE OF THE LOT.
8. DRIVEWAYS FOR LOTS 11 & 14 WILL ACCESS ONTO THE LOCAL SUBDIVISION STREETS, NOT MANTIGANTI ROAD.
9. DRIVEWAYS FOR LOTS 12 & 13 WILL BE SIDE ROAD WITH TURN OUT THAT TRAFFIC DOES NOT BACK ONTO MANTIGANTI ROAD

ACCORDING TO THE FLOOD INSURANCE RATE MAP, PANEL NUMBER 05143C0045F CITY OF TONTITOWN, ARKANSAS COMMUNITY, DATED MAY 16, 2008. THIS PROPERTY LIES WHOLLY WITHIN ZONE "X", NOT IN THE 100 YEAR FLOOD PLAIN.

1. THERE IS NO VISUAL SURFACE EVIDENCE OF ABANDONED WATER WELLS, SUMPS, CESSPOOLS, SPRINGS, WATER IMPOUNDMENTS, AND UNDERGROUND STRUCTURES ON THIS PROJECT.

2. ACCORDING TO THE NATIONAL WETLANDS INVENTORY WEB SITE MAPPER, THERE ARE NO WETLANDS ON THIS PROPERTY.
3. THERE ARE NO KNOWN POTENTIALLY DANGEROUS AREAS WITHIN THE PROJECT.
4. THERE ARE NO KNOWN GROUND LEASES OR ACCESS AGREEMENTS.
5. THERE ARE NO EXISTING EROSION PROBLEMS FOR THIS PROJECT.
6. DRIVEWAY LOCATIONS TO BE DETERMINED. CURB CUTS WILL NOT BE NECESSARY WITH MODIFIED CURB.
7. HYDRANT #05-F21: STATIC PSI=74, RESIDUAL=176, NOZZLE SIZE=2.5", GALLON PER MINUTE (GPM)= 1180
8. ALL CONDUITS PLACED FOR THE ROAD CROSSINGS WILL BE INSTALLED BY THE DEVELOPER AND MUST BE 18" SCHEDULE 40 CONDUITS AT 48 INCH DEPTH AT FINAL GRADE.
9. POWER POLES ON PROPERTY ARE TO BE REMOVED AND ELECTRIC WILL BE INSTALLED UNDERGROUND. THE EXISTING POWER LINE ON THE WEST OF THE PROPERTY WILL REMOVE AS SERVICE FOR EXISTING DWELLING ADJOINING PROPERTY.
10. EXISTING DWELLING TO BE REMOVED AND EXISTING SEPTIC SYSTEM WILL BE PROPERLY REMOVED AND RECLAIMED.



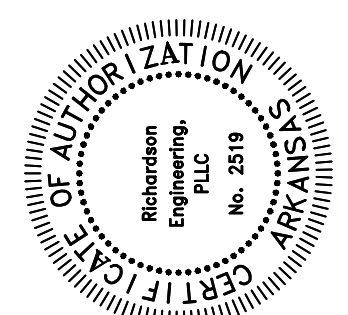
OWNER / DEVELOPER
NORRHO LLC
4285 SHILOH DRIVE
FAYETTEVILLE, AR
DUANE RHODES 479-263-6243

CONTACT: KEVIN NALLEY
KINAXOFFICE@GMAIL.COM
479-200-2399

ENGINEER / SURVEYOR
RICHARDSON ENGINEERING
325 W. SOUTH STREET
BENTON, AR 72015
ENGINEER:
ERIC RICHARDSON PE#14266
501-315-7225
SURVEYOR:
MATT NALLEY PS#1546
501-860-5051



323 W. SOUTH STREET, DENTON, AK 72013 (301) 313-1223



PRELIMINARY PLAT
VENETTO SUBDIVISION
TO THE CITY OF TONTOWN,
WASHINGTON COUNTY, ARKANSAS
PART OF THE NE 1/4 OF THE NW 1/4, SECTION
T-17-N, R-31-W

Prepared For:
NORRHO LLC
4285 SHILOH DRIVE
FAYETTEVILLE, AR 72703

PROJECT NO.: 020-058

Scale: 1" = 50'

Date: 6/15/2021

Sheet: 2 of 29

