

MINUTES OF PLANNING & ZONING COMMISSION
OCTOBER 16, 2008
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:00 o'clock P.M. with a quorum present on October 16, 2008 at the Buffalo County Highway Department, 9730 Antelope Ave., Kearney, NE.

Agenda for such meeting was regularly posted as required by law and the agenda is available for anyone wanting one. Present were: Francis "Buss" Biehl, Willie Keep, Rick Pope, Leonard Skov, Paul Steinbrink, Sr., Craig Wietjes and Loye Wolfe. Absent: Karin Covalt and Marlin Heiden. Also attending were Deputy County Attorney Melanie Bellamy, Zoning Administrator LeAnn Klein and twelve members of the public.

Chairperson Pope announced there was a copy of the open meetings act posted and we do abide by the open meetings act.

The public forum was opened at 7:00 P.M. No one was present. The public forum closed at 7:00 P.M.

Chairperson Pope opened the public hearing at 7:01 P.M. for a special use permit requested by Nebraska Independent Towers for a 150' telecommunications facility on part of the Southwest Quarter of Section 23, Township 11 North, Range 18 West of the 6th p.m., Buffalo County, Nebraska. There was no one present representing Nebraska Independent Towers. Klein told the Commission they were from out of state and she was told someone would be present for the hearing. Pope said they would hold the next hearing and come back to this hearing in case they are running late.

Chairperson Pope opened the next public hearing at 7:03 P.M. for a special use permit requested by Dr. Mark H. Meyer/Onion Crest, LLC for additional hangars with residential/business/air park subdivision for the E ½ of the W ½ of Section 8, Township 9 North, Range 16 West of the 6th p.m., Buffalo County, Nebraska.

Richard Miller, an aviation consultant with Cartell, Inc., was present representing Dr. Meyer and told the Commission Dr. Meyer had contacted him about 1 ½ years ago in developing this land for an executive airpark along the east side of the existing airport. The proposed project would consist of 16 lots, each lot would be 1.5 + acres and would allow a hangar, an office and possibly a residence if the buyer so desired. The runway right-of-way and the road right-of-way to access each partial will be included in the common areas owned by the owners association. All utilities for the development will be underground and placed along the west access road right-of-way. The water system will be a community system supplied by two wells, plus an already existing irrigation well that will be used for fire control. The sewer will be individual septic systems. Each lot would have 50-75' of extra land that could be used for drainage fields. The telecommunications is wireless, which is presently being used. There are currently two hangars

that are being utilized at this facility. The traffic pattern for the aircraft would be on the east side over agricultural land.

Klein said she had been contacted that the runway had been used by an aerial crop duster. She referred back to the original special permit that had been approved by the County Board on August 28, 2007.

Skov referred to this as a private airport. Miller responded that any airport can be a private airport and private airports do not receive any federal money. Anyone can use a private airport in the event of an emergency landing. The owners can specify what type of airport it can be. Skov asked how many aircraft would be using this runway. Miller replied probably no more than 20-25 planes would be using this airstrip. Skov asked if there would be any type of activity that would not be permitted. Miller said that low level acrobatic flying would not be permitted. He said that would be an air space violation.

Miller said the upkeep of the strip is very expensive and by forming this owners association, they all would help with the upkeep of this strip. Miller doesn't think they could expand much more.

Skov also asked how many lots they would need to sell. Miller said he can't really speak for the number of lots it would take.

Biehl asked if the new owners would develop the lots. Miller responded the infrastructure would be there. All future buildings would need to look the same but would be built by individual parties after the plans were approved. Biehl also asked if the runway would remain the same. They might fill in a swale on the south end.

Wolfe asked how much fuel would be stored at this location. Miller can't see more than 1,000 gallons of aviation fuel and 1,000 gallons of jet fuel. This would be stored above ground on rubber (on trucks). She also asked if they had visited with the Riverdale Fire Department. Miller said that hasn't been done but he would inform them later. He also didn't think any school districts would be impacted. Wolfe asked if the planes would be flying at night. Miller said there are lights but he doesn't see a lot of night flying. She asked him if he envisions residences or businesses at this location. He thought probably more businesses would use this airstrip.

Bellamy asked if there were any mileage restrictions between airports. Miller told her the boundaries would have been approved at the time the FAA had approved this airport. There has to be five miles between airports. Bellamy also asked if they had discussed expanding the strip in the future. Miller thought it would be very difficult expanding this strip. Vehicles and planes cannot use the same runway because of Homeland Security. Bellamy asked if they would extend the runway to the south but Miller doesn't think that is an option.

Wietjes wished Dr. Meyer was present tonight to answer some of these questions. He does have concerns of this strip being using by aerial sprayers. Nothing had been mentioned in the previous special use permit. He also has concerns of the drainage along 100th Road and what will the added traffic do to 100th Road.

Keep also has concerns with aerial sprayers.

Klein also told the Commission she had noticed there had been a mobile home placed on this property without any permits. She had noticed this when she went out to look at the property and had sent a letter to Dr. Meyer. This mobile home is west of the strip and north of Mr. Leeds property off Cottonmill Avenue.

Don Leeds addressed the Commission. He lives to the west of the airstrip and doesn't have any problems with the planes. He said Dr. Meyer is a good neighbor and questioned how many planes will be flying in. He also questioned where 100th Road would be accessed by people using the airstrip. Miller told the Commission a driveway would be put east of Wilke's property. Miller also said TSA has authority to say if land surrounding the airstrip would need to be fenced. Leeds also has concerns of how his well would be affected by the new wells that will be put in.

Gary Muhlbach lives to the east of this airport and he questioned if FAA has any restrictions on the number of planes that use this airstrip. Miller responded the owner's association need to give written permission to use this airstrip except in the case of an emergency landing. Muhlbach noted the City of Kearney's airport does not have any residential development around their airport.

Miller noted there are restrictions about how close planes can be towards homes. He also noted there are many residential developments around the Denver Airport as well as other large airports.

Pope closed the public hearing at 7:47 P.M.

Skov questioned what would not be permitted within the "cone" area. Miller said the FAA would have looked at this protected area when this airport was permitted. Things such as cell towers at the end of a runway would not be allowed. Two story houses would not be a problem at the end of this runway. They are having an engineer work on the plat which will show the restricted areas.

Pope asked if a 50' grain bin would interfere with this airstrip. Miller told the Commission a 50' grain bin would not be a problem.

Miller also told the Commission the FAA has authority over the air space. There might be a problem if there would be a 100' elevator or leg off the end of that runway.

Klein reminded the Commission that zoning permits for buildings used for agricultural purposes are not required for anything over 20 acres.

Biehl asked Miller if they would want the County to take over any of these roads in this subdivision. Miller replied these roads would be private and the subdivision would maintain these roads. FAA might even require this area to be fenced.

Wietjes asked about the clearway to the north and what would happen if the area to the north would be developed into homes?

Miller told him he would hope FAA would be contacted on the impact of future development. He said 2-story homes wouldn't bother planes landing or taking off at this airport. He said this runway was established in 1991. Miller said aviation easements on future development might eliminate some problems in the future. FAA has control of the air space over people's homes.

Skov said this airport started as one plane and one hangar. Now it has evolved into 20 aircraft. Where does this end?

Miller said that is evolution and growth. Look at the growth everywhere. They might ask for additional hangars 100 years from now. He really can't say what will happen 100 years from now.

Bellamy asked if the clearway would be changed in any way from what he is asking the Commission. Miller told her that is determined by the FAA. The clearway was determined when the airport was approved in 1991.

Biehl asked what needed to be done with crop sprayers using this strip. He feels a violation has occurred.

Keep questioned if they have additional planes, should they be registered with zoning.

Bellamy replied they can put any restrictions they want on their special use permit but how is this going to be policed?

Wietjes also has issues with both of these violations.

Bellamy asked how many planes are housed at the Kearney Airport.

Miller said that is a problem. There is no space available at the Kearney Airport. Another problem is putting a building on lease ground. What happens to the building if the lease is not renewed?

Wolfe asked if there were chemicals currently stored at this site. Miller said crop sprayers are regulated and there are lots of rules and regulations under DEQ and EPA.

Pope asked if they have a list of interested parties.

Miller told the Commission they currently have 2-3 parties that are interested because of reasonable fuel prices and being able to build on their own land. He said the value of this project is estimated to be \$8 million with each lot having about \$500,000 in each facility.

Skov said there are hangars available and corporate hangars are owned and leased. Kearney airport is very viable.

Keep has a problem with this strip being in AGR. There is lots of development and he understands the flight pattern but adding twenty more planes is a concern.

Wolfe is surprised they didn't hear complaints from any neighbors tonight. That is huge!

Pope asked the total number of anticipated flights. Miller doesn't think there would be that great of number. Miller said some of these planes would not be flown everyday.

Pope doesn't think noise would be a factor. It's no different than farm tractors.

Wolfe asked how many people were notified. Klein responded everyone within 300 feet as well as the City of Kearney and the Village of Riverdale.

Wietjes and Biehl have concerns about the current violations.

The Commission has concerns with this subdivision. Klein told them the County Board would have to address that issue.

Pope also has concerns with mixing commercial and industrial uses in AGR.

Klein asked Bellamy if 5.34 #1 "Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;" would include crop dusting services?

Bellamy replied that it would include crop dusting services.

A motion was made by Steinbrink, seconded by Wietjes to deny this special use permit for additional hangars as presented by Onion Crest, LLC/Dr. Mark Meyer and forward this to the County Board on the following legal description described as a tract of land in the East Half of the West Half of Section 8, Township 9 North, Range 16 West of the 6th p.m., Buffalo County, Nebraska. Voting yes: Steinbrink, Wietjes, Biehl, Keep, Pope and Skov. Voting no: Wolfe. Absent: Covalt and Heiden. Motion passed.

Klein said this will be heard before the County Board on November 12, 2008 and notices will again be sent to adjacent property owners.

Pope then asked if there was anyone present for the special use permit requested by Nebraska Independent Towers for a 150' telecommunications facility on part of the Southwest Quarter of Section 23, Township 11 North, Range 18 West of the 6th p.m., Buffalo County, Nebraska. No one was present representing Nebraska Independent Towers.

Dave Frese, a neighbor that lives to the north of the site, was present.

Klein again said the applicant had been notified and she was told someone from the company would be present at the hearing.

Motion was made by Skov, seconded by Wietjes to table this application until the November meeting.

A friendly amendment was made by Keep, seconded by Wietjes to table this application until the next regular meeting with other regular business that requires a public hearing. Voting yes: Biehl, Keep, Pope, Skov, Steinbrink, Wietjes and Wolfe. Voting no: none. Absent: Covalt and Heiden. Motion passed.

Old Business: Moved by Wolfe, seconded by Biehl to approve the minutes of the September 18, 2008 as corrected. Voting yes: Wolfe, Biehl, Keep, Pope, Skov and Steinbrink. Abstain: Wietjes. Absent: Covalt and Heiden. Motion passed.

Klein also reported the outcome of the hearings heard by the County Board at previous meetings.

Other items of concern were discussed.

The next meeting of the Planning & Zoning Commission will be November 20, 2008 at 7:00 P.M. at the Highway Department if there are any new filings.

The Commission adjourned at 8:50 P.M.