

MINUTES OF PLANNING & ZONING COMMISSION
FEBRUARY 19, 2009
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Zoning Administrator LeAnn Klein opened the meeting at 7:05 P.M. at the Buffalo County Highway Department Building in Kearney, NE with a quorum present on February 19, 2009. Present were: Karin Covalt, Ken Erickson, Marlin Heiden, Willie Keep and Gwen Stengel. Absent: Leonard Skov, Paul Steinbrink, Sr., Craig Wietjes and Loye Wolfe. Also attending were Deputy County Attorney Melodie Bellamy, Zoning Administrator LeAnn Klein and twenty-six members of the public.

Klein announced there was a copy of the open meetings act posted on the bulletin board and we do abide by the open meetings act.

Klein asked for nominations for Chairperson in the absence of Wietjes and Skov. It was moved by Heiden, seconded by Stengel to nominate Willie Keep for Chairperson pro tem for tonight's meeting. Voting yes were Heiden, Stengel, Covalt, Erickson and Keep. Voting no: none. Absent: Skov, Steinbrink, Wietjes and Wolfe.

Klein then turned the meeting over to Chairperson pro tem Keep.

Agenda for such meeting was regularly posted as required by law and the agenda is available for anyone wanting one.

The public forum was opened at 7:06 P.M. No one was present to address the Commission. The public forum closed at 7:06 P.M.

Chairperson pro tem Keep opened the public hearing at 7:07 P.M. for a special use permit requested by Dr. Mark H. Meyer/Onion Crest, LLC for additional hangars with residences for part of the E ½ of the W ½ of Section 8, Township 9 North, Range 16 West of the 6th p.m., Buffalo County, Nebraska.

Jim Anderson, Jayne Meyer and Richard Miller were present to address the Commission regarding this hearing. 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 also include the two already granted special use permit parcels at the south end of the proposed development, each of which already have hangars constructed on them. CC & R's would allow each partial to have a hangar and a single-family residence constructed on it. There would be an owners association that would own the runway right-of-way and the road right-of-way to access each partial which will be included in the common areas. 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. The traffic pattern for the aircraft would be on the east side over agricultural land. There were two major concerns at the previous hearing which have now been addressed. This development would be very well planned and owners would be able to build a residence and live with their airplane. The number of flights each day would be very low. Miller noted the area of protest according to our Zoning Regulations that would be within 100' is very minimal. His client owns most of the property around this proposed subdivision. The values of these homes would be from \$350,000 and up and total valuation of this project would be approximately \$8,000,000. He handed out Exhibits #1 and #2 to the Commission. He also noted there is a letter from Miller & Associates addressing water and septic issues.

Klein noted she also had received a letter from Lewis, Arlys and Douglas Torrey marked as Exhibit #3 which Mr. Torrey will read later.

Bellamy referred to the following:

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required protecting adjoining property. Unless otherwise specifically stated, construction requested on such special permit shall commence within 120 days after authorization and shall be substantially completed two years after commencement. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. The sign shall state in conspicuous writing visible from the traveled surface of the nearest public road: the purpose, time, and place of hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County Board, or Planning Commission which has jurisdiction over land within three miles of the

property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within three hundred (300) feet of the property line of the property requesting the special use permit.

Except as otherwise provided herein, no special use permit shall be granted by the County Board, without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, filed with County Clerk within seven (7) days following Planning Commission's public hearing considering such special use permit signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the County Board. (Resolution 10-10-03)

Bellamy also asked if the current plan complies with the current Buffalo County Subdivision Regulations which the County Board just passed at their February 17, 2009 meeting. She also referred to Section 5.34 #13 of the Zoning Regulations.

Bellamy also asked if the aerial sprayer had used the airport since 2003. Jayne Meyer stated the airstrip had been used since 2003 by another aerial sprayer.

Bellamy also asked if this airport would be used by a flight school which Meyer responded it would not.

Erickson asked if the NRD would need to approve this application.

Bellamy said the County's approval is always subject to federal and state regulations.

Stengel asked where the placement of the irrigation well is located.

Heiden asked if they have a map of their entire property. Meyer told him the homes would be located on the east side only of the existing runway.

Jim Anderson, speaking on behalf of Dr. & Mrs. Meyer, said only current licensed pilots would be flying from this airport.

Heiden asked how many crop sprayers were using the airport. Anderson replied only one and they use the airport for a very limited amount of time.

Keep asked if a charter business would be using this airport and Miller said the FAA would not allow that.

Covalt asked about the number of planes that use this airport. Meyer responded there is not a lot of traffic.

Heiden asked if there would be a mechanic on site. Meyer responded he would have to be a mobile mechanic.

Keep asked if there would be any fly-ins. Meyer responded no.

Douglas Torrey asked what type of planes would use this airport. Miller said they would be twin props or smaller single engine planes.

Don Ulrich said there are some planes with 6-8 windows in the plane.

Anderson said the number of windows don't mean the number of people on a plane.

Ryan Page said the Hilliard's already run a business out of this airport. They fly early in the morning and late at night. There are quite a number of planes in the air. There might be 2 planes in the air and no one controls this.

Anderson said Kearney Municipal airport is an uncontrolled airport. They do not have a tower and Kearney has commercial flights.

Miller said that is not a problem. He flies out of an airport in Idaho and they have about 15-20 training helicopters and their airport is uncontrolled and doesn't have a problem.

Meyer said if the weather is bad, no one uses this airport but use the Kearney Municipal airport instead.

Michael Davia, who lives ½ mile west of Cottonmill Road, asked if living quarters would be in the hangars. Miller replied they would not allow this. The homes would be built under one roof or in a condo situation.

Meyer replied single hangars would also be allowed.

Miller said it is very common to have some homes with hangars or just hangars by themselves.

Page asked if there would be any restrictions on the times of the flights.

Stengel asked if they would be able to buzz Jennie's house.

Meyer responded they need to be at least 1000' from the ground.

Joyce Davia, who lives west of Cottonmill, said they are buzzed all the time.

Miller said the FAA controls the patterns of the planes. The wind dictates which direction they land or take off. He said you must be at least 1000' from the ground unless you are taking off or landing the plane, which is also controlled by FAA.

Marta Moormen asked if this isn't commercial use.

Miller said if the business is totally aviation it would be commercial. We get in a car and leave for work, would that be business? Dr. Meyer is a physician and he flies to his job. If it would be a chartered flight, an airline or flight training, he would consider that commercial.

Douglas Torrey asked if there are any regulations that control the noise from an airplane.

Kathy Ulrich said 16 planes taking off would affect the quality of life and the value of their property.

Janice Woods said her husband is a career pilot and the Kearney airport does not have any storage space for their airplane so they have to store their plane at the Grand Island airport.

Ed Uden lives ½ mile west of Cottonmill Road and he has concerns with the proposed development. He said the City of Kearney doesn't allow that length in their cul-de-sac. This runway is also 1 mile from the Riverdale School and he has concerns of aerial sprayers carrying chemicals over the children. The air traffic would also affect their quality of life. They moved out to the country for country living. They also hear planes coming from the west and circling to land. We didn't purchase our homes by the Kearney Airport.

Keep reminded them this subdivision would have to meet the current subdivision regulations.

Miller also stated there would be another access road off Cottonmill Road. Miller also said Homeland Security might require this be a gated community.

Richard Theis said he doesn't want an airport next to his property.

Douglas Torrey read a letter into the record marked as Exhibit #3 opposing this proposed subdivision.

Mike Davia questioned what the difference between this application and the previous application is. He still has lots of concerns. The end results will be more planes.

Don Leeds lives directly to the west of the air strip and asked if this strip wouldn't be beneficial to Buffalo County in the event of a terrorist attack at the municipal airport.

Heiden said this strip is on an aviation map.

Meyer said this strip can be used in the event of an emergency.

Miller said this air strip has been approved by the FAA since the early 90's. Once the wheels leave the runway, they are controlled by the FAA.

Joe Woodward said the air space is controlled by Buffalo County zoning regulations.

Bellamy said Buffalo County zoning only controls the ground use and would not control any air space.

Chairperson pro tem Keep closed the public hearing at 8:22 P.M.

Bellamy has concerns about allowing two buildings on each property. She also stated the covenants have not been filed. This subdivision will need to comply with our recently adopted subdivision regulations.

Klein told the Commission that covenants are strictly between the buyer and the seller and the County does not control covenants.

The Commission members also agreed there is a lot of information to go over.

A motion was made by Erickson, seconded by Heiden to table this special use permit for additional hangars until the March 19, 2009 meeting as presented by Onion Crest, LLC/Dr. Mark Meyer 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 and re-open the public hearing for additional information. Voting yes: Erickson, Heiden, Covalt, Keep and Stengel. Voting no: none. Absent: Skov, Steinbrink, Wietjes and Wolfe. Motion passed.

Klein said this will be heard on March 19, 2009 and notices will again be sent to adjacent property owners.

Chairperson pro tem Keep opened the next public hearing for the amendment of zoning regulations to allow mineral extraction under Agricultural-Residential zoning with a special use permit.

Keep told the Commission T & F Sand & Gravel is his employer so he will be abstaining from the voting; therefore, we will not have a quorum for the next two hearings.

Klein apologized that we didn't have a quorum. A representative of Knife River Midwest, LLC asked if the Commission could have a special meeting. They have a start date of April 1 through

the State of Nebraska and they have a certain amount of time to get the project done. Different dates were discussed by the Commission for the special meeting.

Moved by Stengel, seconded by Covalt to hold a special Planning & Zoning Commission meeting on March 5, 2009 for the zoning map amendment application and also the special use permit application filed by Rick Follmer.

Voting yes were Stengel, Covalt, Erickson, Keep and Heiden. Voting no: none. Absent: Skov, Steinbrink, Wietjes and Wolfe. Motion passed.

Old Business: Moved by Stengel, seconded by Erickson to approve the minutes of the January 15, 2009 as corrected. Voting yes: Stengel, Erickson, Covalt, Keep and Heiden. Voting no: none. Absent: Skov, Steinbrink, Wietjes and Wolfe. Motion passed.

Klein also reported the outcome of the hearings heard by the County Board at previous meetings. She also gave them reports for the zoning totals for 2008.

Other items of concern were discussed.

The next meeting of the Planning & Zoning Commission will be March 5, 2009 at 7:00 P.M. at the Highway Department.

Moved by Stengel to adjourn at 8:55 P.M.