



SCOTT COUNTY
PLANNING ADVISORY COMMISSION
MEETING MINUTES

Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota

Monday, October 12, 2020
County Board Room at 6:37 PM

I. ROLL CALL AND INTRODUCTIONS

Chair Vonhof opened the meeting at 6:37 PM with the following members present: Gary Hartmann, Ray Huber, Barbara Johnson, Donna Hentges. Ed Hrabe and Lee Watson attended by phone through Skype teleconference.

County Staff Present: Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Tom Wolf, County Board Commissioner; Barb Simonson, Deputy Clerk to the Board and Kiara Swanson, Video Technician.

II. APPROVAL OF SEPTEMBER 14, 2020 PLANNING ADVISORY COMMISSION MINUTES

Motion by Commissioner Johnson; second by Commissioner Hentges to approve the minutes September 14, 2020 Planning Advisory meeting.

Chair Vonhof called for a roll call vote with results as follows:

Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye

The motion to approve past minutes passed with 7 Ayes.

III. CONSENT AGENDA

(All items listed were considered by the Planning Commission to be routine and were enacted by one motion. There was no separate discussion of these items unless a Planning Commission Board member or public member so requested, in which event the item would be removed from the Consent Agenda to be considered separately.)

3.1 PUBLIC HEARING 6:37 PM: MESENBRINK REZONE (PL#2020-047)

A. Request to Rezone 95.32 Acres From Urban Expansion Reserve District, UER, to Urban Expansion Reserve Cluster District, UER-C.

Location: Section 10
Township: Credit River
Current Zoning: UER

3.2 PUBLIC HEARING 6:35 PM – BAUER REZONE (PL#2020-057)

A. Request to Rezone 40 Acres from A-1, Agricultural Preservation District, to A-3, Agricultural Preservation Density District.

Location: Section 23
Township: Belle Plaine
Current Zoning: A-1

3.3 PUBLIC HEARING 6:35 PM – SIOUX VALLEY ESTATES (PL#2020-036)

A. Request for Preliminary Plat and Final Plat of Sioux Valley Estates Consisting of 4 Lots on 40 Acres

Location: Section 11
Township: New Market
Current Zoning: RR-1

3.4 PUBLIC HEARING 6:35 PM – PIEFFER COMP PLAN AMENDMENT (PL#2020-044)

A. Request to Re-guide a 5 Acre Parcel Along new Louisville Frontage Road from UER, Urban Expansion Reserve, to Commercial, on the 2040 Planned Land Use Map

Location: Section 22
Township: Louisville
Current Zoning: UER

Chair Vonhof announced each consent item and asked if anyone wanted the matter removed from the consent agenda for discussion. A member of the public requested that matter 3.3 be removed from consent.

Motion by Commissioner Huber; second by Commissioner Hentges to approve the 3 remaining consent agenda items noting item 3.3 will be removed and placed on the timed agenda for discussion. The motion carried based on a roll call vote.

Chair Vonhof called for a roll call vote with results as follows:

Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye on items 3.2 and 3.4. Abstain on item 3.1.
Commissioner Watson: Aye

The motion passed with 7 Ayes on item 3.2 and 3.4. 6 Ayes and one Abstain on item 3.1.

IV. PUBLIC HEARING 6:40 PM SIOUX VALLEY ESTATES (PL#2020-036)

A. Request for Preliminary and Final Plat of Sioux Valley Estates Consisting 4 lots on 40 Acres

Location: Section 11
Township: New Market
Current Zoning: RR-1

Principal Planner Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website link: [October 12, 2020 Planning Advisory Commission Agenda Packet](#).

(To view the staff report and video on the county website using the link, click on the download arrow and click on Agenda, then Save and then Open. Next open the bookmark at the top of the page and click on the Sioux Valley Estates project name.)

Commissioner Questions and Comments:

Commissioner Huber inquired about the possibility of the road being rebuilt in a different location. *Mr. Wagner reported it is a township issue as it is a township road and would most likely be rebuilt in same place. This would be up to the town board as they are the local road authority.*

Commissioner Johnson inquired if eminent domain comes into play since the township has maintained the road for many years. *Mr. Wagner clarified that there is a statute regarding the maintenance of township roads through prescriptive easement, however, the question is how far they maintain. Mr. Wagner identified on the site maps the road and area in question with regards to road maintenance. The applicants will need to determine the maintained road area through title research and survey.*

Commissioner Hrabe asked if it's up to the county attorney to accept a title insurance policy or opinion regarding having clear title on the portion of the road in question. *Mr. Wagner replied that the county attorney does sign off on the plat and they want to see all title issues addressed and resolved before they sign the mylars.*

Mr. Wagner reported the planning staff and the county attorney are recommending approval of the plat subject to the conditions along with an additional condition to include the requirement for the applicants to resolve the issue of whether or not they have legal access to the road.

Commissioner Johnson asked for clarification on the new survey being done and what it will accomplish. *Mr. Wagner reported the surveying will be done on the township road and ditch to verify the boundaries and responsibility for the road and ditch. Information from the new survey will be shared with all parties. The issues regarding the survey, boundaries and road maintenance must be resolved prior to Board consideration.*

Chair Vonhof opened the public hearing for public comment.

Scott Tempel, of 10171 240th St E, neighbor to the property, is concerned about:

- The maintenance of the road and ditch with regards to the township
- Concerned future owners/residents are aware of potential land use issues or accesses
- The status of the land until it is built on
- Not against the projects but wants concerns addressed

Andrew Sellner, applicant:

- Addressed previous noted concerns and explained what their plans are with the property

Adam Besse, applicant:

- Explained plans to address the road/ditch maintenance issues
- Reported they plan to live there and want the issues addressed properly
- Plans to cover the land until homes are built

Noting no one additional approached the podium. Chari Vonhof requested a motion to close public hearing.

Motion by Commissioner Hentges to close the public hearing; second by Commission Huber. The motion carried unanimously with a roll call vote. Chair Vonhof called for a roll call vote to close the public hearing with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

Motion by Commissioner Johnson; second by Commission Huber, based on the criteria for approval listed in the staff report, I recommend approval of the preliminary plat and final plat of Sioux Valley Estates, consisting of 4 lots on 40 acres, noting that there are 4 amended conditions that must be satisfied prior to County Board consideration of the project. The motion carried with a roll call vote.

Chair Vonhof called for a roll call vote to approve Sioux Valley Estates project with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

Chari Vonhof requested motion to remove the Schieffer Heliport item from the table back to discussion. The item was tabled at the September Planning Advisory meeting.

Motion by Commissioner Hentges to remove the Schieffer Heliport item from the table back to the floor for continued discussion; second by Commission Huber. The motion carried unanimously with a roll call vote. Chair Vonhof called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

V. CONTINUED ITEM--PUBLIC HEARING 7:14 PM SCHIEFFER HELIPORT (PL#2020-048) TABLED FROM SEPTEMBER 14, 2020 PLANNING ADVISORY COMMISSION AGENDA

A. Request for Conditional Use Permit to Construct and Operate a Private Heliport in the RR-1 District.

Location: Section 26
Township: Cedar Lake
Current Zoning: RR-1

Zoning Administrator Marty Schmitz presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website link: [October 12, 2020 Planning Advisory Commission Agenda Packet](#).

(To view the staff report and video on the county website using the link, click on the download arrow and click on Agenda, then Save and then Open. Next open the bookmark at the top of the page and click on the Schieffer project name.)

This CUP request was continued from the previous meeting in order for the applicant to provide further information to address questions and concerns from neighboring properties and the Planning Commissioners in the areas of topographical elevations, emergency action plan, lighting plan, general operating restrictions from the FAA and a sound study. Reports on the additional information were provided in the staff report to the Commissioners.

Presentation by Rex Alexander on the topographical elevations, emergency action plan, lighting plan, FAA general operating restrictions, weather criteria and the sound study. In addition, Norman Dotti, who completed the sound study, was in the meeting via Skype and available to answer questions.

Mr. Alexander began the presentation with the sound study report.

Chair Vonhof opened the floor to the Commissioners for comments on the sound study report.

Commissioner Huber asked if the sound study gives an opinion on whether the helicopter operations will exceed 65 decibels. *Mr. Alexander stated the study was conducted based on requirements in the MN Statute and found that operations meet state noise requirements.*

Commissioner Johnson commented on a recent viewing of the President's helicopter taking off and landing on television. She noted it took about 2 minutes for it to take off and the helicopter had reached a high elevation and was up and gone. She asked if the subject helicopter would be similar. *Mr. Alexander explained the situation would be different because Marine One is different due to the APU and the pre-flight process. The Bell 206 is smaller and starting it takes about 3-4 minutes. Mr. Alexander stated once it takes off and is on departure, it's about 27.3 seconds to reach 500 feet elevation.*

Commissioner Hentges stated everyone in the room would agree the helicopter will make noise during take-off and landing. She said the key question before them is how often and where the helicopter operates.

Mr. Alexander continued with the presentation on the topographical data and directional approach/departure flight paths. He presented diagrams and data on overhead screens of each directional approach/departure path. This included a review of the nearest residences to the elevation of each approach/departure path and a graph and photo of the distances. Mr. Alexander stated he discussed the results with the FAA and the MNDOT staff and they saw no issues with the airspace in comparison with the topography of the area.

Chair Vonhof opened the floor to the Commissioners for comments on the topographical and directional flight path reports. There were no questions or comments from the Commissioners.

Mr. Alexander continued with the presentation on the Emergency Action Plan. Planner Marty Schmitz noted the Emergency Action Plan was sent to and reviewed by the Elko New Market Fire Chief and the Scott County Sheriff's Office.

Chair Vonhof opened the floor to the Commissioners for comments on the Emergency Action Plan. There were no questions or comments from the Commissioners.

Mr. Alexander continued with the presentation of the Heliport Lighting Plan based on FAA guidelines.

Chair Vonhof opened the floor to the Commissioners for comments on the Heliport Lighting Plan.

Commissioner Johnson inquired about the nearest neighbor being able to see the lights. Mr. Alexander stated he reviewed the location of the nearest house and felt the light may be able to be seen from a second story window but not on ground level. He noted the lights will only be on when necessary during take-off and landing operations.

Mr. Alexander continued with the presentation on FAA weather requirements and visual flight rules.

Chair Vonhof opened the floor to the Commissioners for comments on the weather requirements and visual flight rules report. There were no questions or comments from the Commissioners.

Mr. Schmitz presented the draft conditions listed in the staff report. He outlined which ones remained the same from the previous meeting, and which ones were modified or amended based on comments received at the public hearing.

Commissioner Johnson, Commissioner Hartman, Commissioner Hentges, Commissioner Vonhof discussed whether Condition #2 should state the CUP "may" or "shall" be reviewed annually by the Planning Commission, and whether it would be reviewed by the Town Board.

Commissioner Johnson commented on Condition #6 regarding the transfer of the CUP and whether a time limit of 1 year should be added to this condition, whereby if a new property owner does not utilize the heliport within one year of purchasing the property, the CUP expires.

Commissioner Johnson commented on Condition #9 regarding defined hours and noted this is an area that needs further discussion and a final determination.

Commissioner Hentges commented and discussed Condition #13, whether the north approach/departure flight path could be eliminated as it appears to be the most contentious path.

Rex Alexander provided further information on the need for the north flight path and reported the wind direction is crucial when it comes to having alternatives to approach or departure paths.

Commissioner Watson commented and inquired about Condition #18 regarding livestock, asking what the process would be if there should be an issue in this area. He wondered if this would be an insurance or legal issue. *Mr. Schmitz replied the CUP condition would be the first step to resolve the issue.*

Chair Vonhof opened the floor to allow discussion on the conditions from representatives of surrounding neighborhoods.

Steve Domeier, from the Hunter's Lane/Crest neighborhood, came forward and communicated the concerns of the Hunter's Lane neighbors, emphasizing preferred flight paths and hours of operation:

- Requesting the northern flight path be removed as a route option, it is the most populated area. The southern route or even an eastern path seem to make the most sense. An eastern flight path should be considered.
- Limit time and days to fly. Would like to see no flights allowed on Sundays.
- Limit to one flight operation per day and limit total flights per year to 50
- The Helipad be placed as far south on the property as possible
- In Condition #2, the annual review "shall" occur instead of "may" occur.
- Requesting a test flight for board members to personally witness an actual flight

Loren Bahls, of 26340 Wyldewood, came forward and commented on concerns on certain conditions:

- Life does get disrupted by the helicopter
- Collected signatures on the petitions from neighbors. Believes 95% of them are against the heliport being allowed in the neighborhood
- Commented on his experience at the Town Board meeting on the matter
- Does not want unlimited use
- Would prefer the Eagle's nest be avoided 12 months of the year
- Flight should be suspended when county is investigating complaints

Darrel Woods, of 4090 Hunter's Lane, came forward and commented on concerns on certain conditions:

- Recently moved to the neighborhood and is against the heliport being allowed
- Does not want flights on Saturday and Sundays and does not support the use of the Northern path
- Requested a test flight be witnessed by County officials
- Concerned about the Eagle's nest and activities around the nest all year long
- Limit take offs and landings to one per day

Doug Schieffer, applicant, presented an alternative option for the northern flight plan noting he has heard the concerns and would like to work with the neighbors. He showed a graphic depicting a northeast flight path option. Mr. Schieffer stated this was a new proposal and had not been submitted to FAA for formal approval yet. In addition, Mr. Schieffer reported he did have a permit for the building.

Chair Vonhof asked applicant about how and when his flights get recorded. Mr. Schieffer reported he records each flight and they are also recorded and can be viewed on Flight Tracker.com. It would not be difficult to self-report as he must record his flights already.

Chair Vonhof returned the floor to Commissioner Johnson.

Commissioner Johnson continued to address the conditions that were being discussed for possible amendment.

Chair Vonhof polled the Commissioners to determine consensus on the list of conditions discussed by the neighborhood representatives and applicant. This list included:

- Determine hours of operations
- Determine days of operation
- Determine if use of the North flight path should be eliminated entirely, or allow North flight path to only when necessary due to wind/weather
- Determine what information the applicant should log and report each year
- Determine if a time limit should be established for Condition #6 if heliport is not used by a new owner
- Determine if Condition #1 should include the word "may" to "shall" when it comes to Planning Commission review

- Determine if the 1,000ft flight separation established in Condition #15 for the eagle's nest should occur only during the breeding season, or all year long.

Based on discussion and consensus reached by the Commissioners, Marty Schmitz reviewed the set of modified conditions being recommended by the Commission, as listed below.

1. The applicant is to file with the Scott County Planning Office in January of each year a letter stating that they are in compliance with the conditions of the Conditional Use Permit as issued. The letter shall include a log of all flight operations, with date and time of each take-off and landing, the flight path used for each take-off and landing, and the weather and wind conditions for any operation when the north flight path was used.
2. This Conditional Use Permit shall be annually reviewed by the Planning Commission. The CUP may be annually reviewed by the Township at a time and in a manner as prescribed by the Cedar Lake Township Board.
3. The applicant shall pay an annual inspection fee for the CUP, if and when the County adopts an inspection fee ordinance.
4. This Conditional Use Permit is issued for the specific use of the subject property for a private heliport and helicopter in compliance with the plans, narratives and information submitted by the applicant. Any changes to the CUP shall be reviewed by the County and any expansion of the use shall require the Conditional Use Permit to be amended.
5. The CUP is issued on the 40-acre parcel as legally described on the survey dated August 18, 2020. The applicant's homestead and helipad shall remain on a single parcel.
6. If the property is sold, the new owner shall contact the Scott County Planning Department to review the conditions of the CUP to officially transfer permit. If a new property owner does not utilize the heliport within one (1) year of the date of sale, this CUP shall expire.
7. The heliport shall be limited for private use of one (1) Bell 206 L4, Tail # N7575S helicopter owned by the applicant. No other helicopters shall use the helipad or be stored on the applicant's property. If the applicant wishes to change the type of helicopter used for the private use of the helipad, the applicant shall contact the Scott County Planning Department to review the conditions of the CUP.
8. Use of the heliport shall be limited to two take-offs and two landings per day and 50 (fifty) take-offs and 50 (fifty) landings per calendar year. On four days per calendar year the number of take offs and lands may exceed two. The applicant shall notify the County prior to each of the four days this exceedance will occur.
9. The heliport and helicopter operations (defined as when the helicopter engine is running) can only be used from 7:00 am to 7:00 pm throughout the entire calendar year.
10. The heliport use shall comply with all MPCA noise standards. If the County receives multiple complaints on noise within a calendar year the applicant at his expense shall cover the costs for the County to contract an independent noise consultant to measure noise levels in the impacted area and provide a report. If exceedances are occurring the noise consultant shall provide mitigations measures to resolve the exceedance.
11. Prior to operation of the heliport the applicant shall receive MnDOT approval and a license to operate. A copy of the license shall be provided to the County.
12. The applicant shall follow all FAA requirements for a private heliport and helicopter operations.
13. To limit the impact on residences, livestock and powerlines, the applicant shall only use the FAA recommended approach/departure paths from the south and west, unless weather and wind conditions warrant use of the north flight path.
14. The applicant shall maintain the Bell 206 L4, Tail # N7575S following all manufacturers requirements and specifications. All major repair and maintenance of the helicopter will be performed at a separate, licensed maintenance facility. Maintenance records shall be provided the County upon request.

15. To ensure compliance with the Eagle Act, the applicant shall not operate the helicopter within 1,000 feet of the existing known eagle's nest at all times.
16. The applicant shall schedule inspections and obtain any required Hazardous Waste License as required from Scott County Environmental Services Department.
17. The applicant shall not hover helicopter over private property except his own property.
18. If livestock are disrupted by the takeoff and landing of the applicant's helicopter, the applicant shall meet with livestock owner and mitigate the disruptions. The applicant shall be responsible for injuries to livestock or economic damage caused by livestock due to disruptions created by the applicant's helicopter.
19. The applicant shall solely use the helipad located on the site plan and survey dated August 18, 2020.

There was further discussion on the hours of operations of 7am to 7pm under consideration, and whether it should read ½ hour after sunset or 7 pm, whichever is earlier. After discussion and talking with the applicant about flying after dark, it was determined the recommended condition should read 7am to 7pm in Condition #9.

Motion by Commissioner Johnson; second by Commission Huber, based on the criteria and conditions for approval listed in the staff report, I recommend approval of the Conditional Use Permit for Douglas Schieffer to operate a private heliport on his 40-acre property at 26456 Wyldewood Dr, in Section 26 of Cedar Lake Township, noting the Cedar Lake Town Board as not taken action, there are 19 conditions that have been discussed and modified. The motion carried with a roll call vote.

Chair Vonhof called for a roll call vote to approve the Schieffer Heliport Conditional Use Permit with results as follows:

**Commissioner Vonhof: Aye
 Commissioner Hartmann: Aye
 Commissioner Hentges: Aye
 Commissioner Hrabe: Aye
 Commissioner Huber: Aye
 Commissioner Johnson: Aye
 Commissioner Watson: Aye**

The motion passed with 7 Ayes

V. PLANNING MANAGER UPDATE REPORT-Presented by Brad Davis

VI. GENERAL & ADJOURN

Motion by Commissioner Huber; second by Commission Hartmann to adjourn the meeting at 9:15 PM. The motion carried unanimously.

**Tom Vonhof
 Chair, Planning Advisory Commission**

Date

11/09/2020

**Barbara Simonson
 Deputy Clerk to the Board**

Date

11/9/2020