

Think Quality - Think Future

Blount County Planning Department

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TO: Blount County Planning Commission

FROM: John Lamb

DATE: October 31, 2008

SUBJECT: Item VII – 1. Report of citizen comments and questions, and staff findings in relation to a possible airpark off of Jeffries Hollow Road and Keener Road.

The Planning Commission lacked a quorum at its regularly scheduled meeting of October 23, 2008, and thus was not able to formally consider the published agenda. To accommodate a large group of citizens wishing to express concerns about a potential airpark development in their area, the Planning Commissioners present (Brownlie, Harrison, Proffitt, Ramsey, Scully, and Stucky), agreed to informally hear the citizen concerns. Staff was represented by John Lamb. This is a staff report of comments and questions by the citizens, and staff report on findings in relation to the comments, questions and situation to date.

Chairman Scully opened and Mr. Lamb noted that there was no quorum present and that the remaining members agreed to informally listen to the citizens gathered. Thirteen citizens spoke.

John Templeton of the Skyview Subdivision contended that Mr. Weaver, owner of property off of Jefferies Hollow Road, was constructing a runway for an airport only a few yards from some of the neighboring houses, and producing construction noise and dust. Mr. Templeton stated he had heard that Mr. Weaver had plans for a development of five to eight lots, with taxiways to an 800 yard long runway. Mr. Templeton stated that Mr. Weaver has moved large amounts of earth, muddied surrounding ponds, destroyed fences, covered large areas with dust, disturbed the peace, and

compromised property values. Mr. Templeton stated that airplanes had flown over surrounding properties. Mr. Templeton stated that he and others had tried to get information on the project, but were not satisfied with the answers. He proceeded to read a list of 18 questions (see attached). He stated that the Federal Aviation Administration (FAA) takes no interest in regulating private airstrips. He stated that he did not want to see the project go forward, and contended that the Planning Commission has authority to stop it and should stop it.

Terry L. Harper expressed concern that the runway faced his backyard, and that Mr. Weaver's access came across his driveway.

Steve Sollaman of Skyview Subdivision stated that he was a licensed pilot and expressed concern with possible conflicts of flight patterns with the Seymour Airpark (indicated on maps provided with this report) and possible safety issues.

Pam Thompson, president of the Skyview Homeowners Association, expressed concern with proximity of the new Blount County school in the area off Burnett Station Road. Ms Thompson stated that she had received 65 phone calls from individuals concerned about the safety of their homes.

Coy Sparks of Jefferies Hollow Road expressed concern with runoff and safety.

Michelle Rule of Keener Road owns property adjacent to Mr. Weaver's Property and expressed concern that military flights and frequent low altitude ultralite flights in the area may result in conflicts and safety issues.

Eugene Burk of Ashley Meadows Subdivision objected to having a second airpark other than existing Seymour Airpark so close to his property, stating that a residential area is now becoming like an industrial park. He stated that it is a function of the Planning Commission to plan land uses to protect residential areas. He objected to the noise of machinery and the cutting of hills for the airstrip.

Donny Thomas owns property adjacent to Mr. Weaver's property and expressed concern with runoff and siltation on his and a neighboring property.

Susan Csanadi of Skyview Subdivision stated that she had moved from Connecticut to escape from overflights and objected to a new airstrip nearby.

Debbie Claxton of Keener Road owns property adjacent to land that would contain the airstrip, and has a sister that is reportedly in process of selling an immediately adjacent property to Mr. Weaver for the airstrip. She expressed concern with potential erosion and runoff and potential effect on cattle on her property from the airstrip operation.

(Dr. Ramsey left the meeting at this point to attend a prior engagement.)

David Cooper of Keener Road expressed concern with his house being at the end of the runway and possible safety concerns. He asked how someone could start construction without owning the land.

Don Douglas of Skyview Subdivision asked that safety concerns be taken seriously.

Donny Thomas returned and expressed concern that Mr. Weaver intends to clear a common fence line for utilities and stated that he wished that the project could be stopped, or at least someone could talk to Mr. Weaver before too long.

Judy Douglas of Skyview Subdivision noted the ongoing green infrastructure workshops, and noted that when permits in her subdivision were sought, the property owners were told that they could not change the lay of the land. She asked how Mr. Weaver could take off a whole hill without some approval and the surrounding property owners having some say. She noted that the group of citizens represented not just Skyview Subdivision but many other surrounding property owners.

There being no others to speak, Chairman Scully turned the response over to Mr. Lamb (staff). Mr. Lamb stated that he would write-up a report of the citizen comments and would address as many questions as he could and report at the next Planning Commission meeting. He summarized some of the difficulties in answering questions when there are no plans or application submitted for permit. He briefly noted that the only permit at this stage was a grading permit for the on-going work on the land at present.

Mr. Templeton returned to the microphone and commented that the project was very large and should have a plan associated with it to proceed, that he and others were opposed to the project, and that there needs to be some official restriction or regulation of airpark developments.

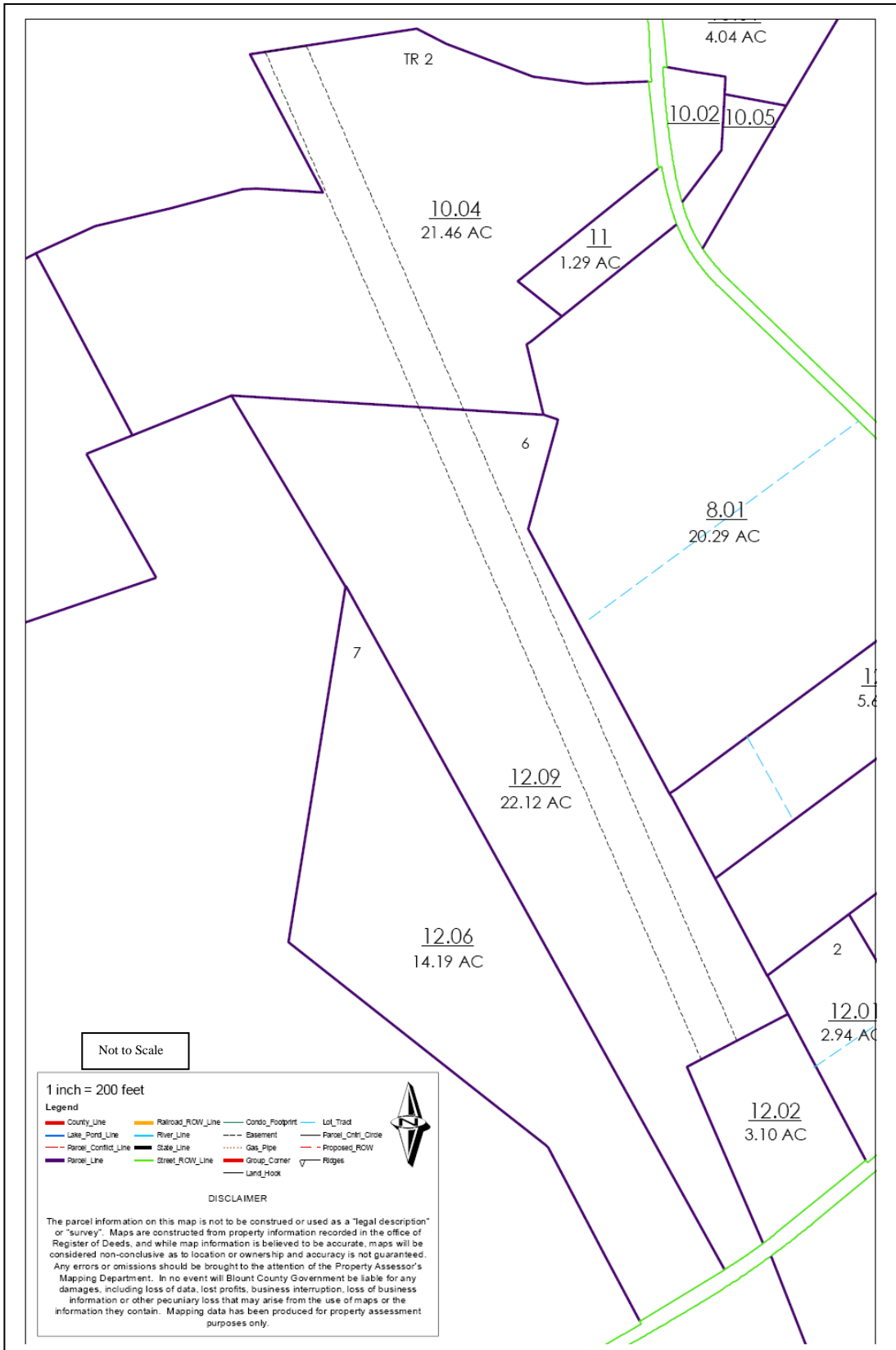
Mr. Lamb responded to a few more questions from the citizens gathered, and noted that he would research the situation and report at the next Planning Commission meeting. He stated that the next meeting would be a called meeting to accommodate the October agenda, and would be sometime early November after polling the Planning Commissioners. He invited the citizens to check with his office the middle of the following week or go online to the Planning Department web site for information on the schedule of the next called meeting.

To establish context, on the following page is a parcel map of the land at issue (shaded), and surrounding lands from tax maps, followed on succeeding page by a map with detail of Mr. Weaver's property and immediately surrounding parcels.

The shaded area on the first map is the land that is subject of citizen comments and questions. Note that there are two parcels involved (see also enlarged map). Dennis Weaver owns Parcel 12.09 containing 22.12 acres, deed of public record book 2178 page 1715, and shown in plat of public record 1372A, both in the Register of Deeds. Lois Chiles owns Parcel 10.04 containing 21.46 acres by will of Hobart Carnes, shown on plat of public record 2564B in the Register of Deeds. The Weaver property accesses off of Jefferies Hollow Road via shared driveway easement with parcel 12.02 owned by Terry Harper. The Chiles property accesses off of Keener Road.

The following was developed in reference to the list of questions of Mr. Templeton attached to this report, and general comments of citizens documented above.

Weaver and Chiles entered into an agreement to create a "Joint Permanent Easement" of public record in record book 2210 page 1222 (dated September 26, 2008). The stated purpose of the 100 foot wide and 2750 foot long joint permanent easement is for a "landing strip for the common use of their respective tracts". The dotted line on the maps indicates the easement.



In regards to the runway easement in relation to properties of those who spoke and other reference points, the nearest lot in Skyview subdivision is approximately 1600 feet to the west (left) of the runway easement with access off of Boling Road. The nearest lot in Ashley Meadows subdivision is approximately 1000 feet to the northwest with access off of Cunningham Road. Seymour Airpark is approximately one mile to the south of Mr. Weaver's property. The new site for a school on Burnett Station Road is approximately two miles to the northwest.

In the immediate vicinity of the runway easement, the adjoining parcel 12.02 of Terry Harper contains a house that is approximately 130 feet from the south end of the easement, parcel 12.01 of Coy Sparks contains a house that is approximately 200 feet from the south end of the easement to the side, parcel 12.04 of Michelle Rule contains a house that is approximately 350 feet from the east side of the easement, parcel 12.06 of Donny Thomas contains a house that is approximately 500 feet from the west side of the easement, and parcel 10.00 of Debbie Claxton contains a house on Keener Road that is approximately 700 feet from the west side of the easement at an angle (not shown but off the north end of the enlarged map). The house referred to by David Cooper at the end of the runway easement off of Keener Road could not be confirmed under that name from tax parcel records.

The specific type of plans, plats and permit applications required for County review would depend on the type of development. Assuming that the project is intended to be a residential airpark of some sort, several offices of County Government may be involved in review of plans, plats, or other permit applications. These offices could include the following:

Planning Department responsible for review of subdivision plats under the Subdivision Regulations of the Planning Commission;

Blount County Planning Commission responsible for approving subdivision plats under the Subdivision Regulations;

Building Commissioner responsible for zoning related permits and zoning matters generally under the Zoning Resolution of the County;

Board of Zoning appeals responsible for approval of multi-unit residential projects without division of land, and responsible for variance applications and appeals of zoning decisions;

Highway Department responsible for review in relation to local roads;

Environmental Health Department responsible for reviewing septic capability for plats and approving septic system permits under State and County regulations;

Stormwater Department responsible for grading permits and enforcement of County water quality regulations; and

Building Safety Department responsible for administering permits relating to County building codes.

In addition to County offices, a project could fall under State agency review and permitting such as the following: erosion control and stream alteration permits (SWPPP and ARAP) with the Tennessee Department of Environment and Conservation (TDEC); sewer system permits such as sand filtration systems under TDEC or Tennessee Regulatory Commission (TRC); driveway and access permits on state routes under Tennessee Department of Transportation (TDOT); and possible other permits for specific types of uses.

In addition to County and State government offices, a project could be required as part of a permit to gain review and approval from utilities such as sewer, water and electric.

Staff contacted the Tennessee Department of Transportation (TDOT) Aeronautics Division to find if there were any State regulations or permits for private residential airstrips or airparks. See attached response by Paul A. Perry of that office. In summary, the TDOT Aeronautics Division does not license private airparks, but does require notification of airpark regulations that restrict activities that can be conducted on private airparks. The FAA requires "Notice of Landing Area Proposal" which seems to be only an administrative notice and not a permit. Staff has requested, but not received yet, confirmation of any required notifications to the TDOT Aeronautics Division.

At present, the only known local permit is a grading permit from the County Stormwater Department. The permit was issued April 3, 2008 and is good for one year. Plans associated with the permit are of public record in the files of the Stormwater Department. The plans indicate eight lots on about 43 acres along with an airstrip. The airstrip easement is indicated crossing all but one of the eight properties, with the eighth property indicated to be accessed by a 25 foot common driveway easement. The Stormwater Department conducted several inspections of the site and reports no present violations. Planning Department staff also confirmed that Mr. Weaver has a Storm Water Pollution Prevention Plan (SWPPP) permit from TDEC Division of Water Pollution Control, for grading and erosion control, issued December 20, 2007 and effective to May 30, 2010 (permit number TNR-132-928).

Mr. Weaver presented a soils map around November 1, 2007, of public record in the files of the Environmental Health Department. The soils map showed eight tracts of similar design to the grading permit, all five acres or greater, and a runway. The Environmental Health Department noted that the land involved has poor soils and is substantially disturbed which may result in limited septic capability for residential use. No permit application was submitted.

During the past year, Mr. Weaver contacted the Planning Department and Building Commissioner to discuss his intent, but has not submitted any plans or permit applications. Thus, the Planning Department and the Building Commissioner have no specific basis for review and comment. However, based on discussions with Mr. Weaver and some preliminary observations of the site, the offices provided a general assessment. The Planning Department noted that a low density subdivision would be consistent with the R-1 zone and would require a plat consistent with design requirements of the Subdivision Regulations, and referred Mr. Weaver to the Building Commissioner for any zoning issues. Planning Department staff counseled Mr. Weaver that any work on his land prior to plat and other permit approvals would be at his own risk. The Building Commissioner noted that a non-commercial private airstrip associated with residential use may be accommodated as a permitted accessory use, similar to other non-commercial, private, residential airstrips in the County.

A property owner can approach relevant utilities on his/her own without going through a County office, and may obtain service outside of any

County permit system. Staff has not researched and has not confirmed any contact of Mr. Weaver with any utility. Utility issues are addressed in the plating process, and no plat has been submitted.

No office in County Government is charged with technical review of an airstrip and its operations, and to staff's knowledge, no office in County Government has expertise to review the design of an airstrip. In any event, no plans or application for an airstrip or airpark have been submitted to the Planning Department, Planning Commission, Building Commissioner or Board of Zoning Appeals in this instance, and there is thus no basis for specific review and comment.

Staff finds no evidence of violation of any local regulations, and thus finds no basis for any enforcement action by any department, agency, board or commission of County Government. There has been no reported violation of any grading and erosion control permit. There has been no evidence of establishment of any new septic systems on the properties. There has been no new division of land. There has been no violation of zoning regulations. There has been no construction of a permanent structure requiring building permit.

Some citizens suggested that there should be regulations for private airstrips or airparks. If the Planning Commission wishes to formulate or recommend such regulations, it may opt to do so in the future. Proposed amendment of the Subdivision Regulation would be addressed by the Planning Commission directly. Proposed amendment of the Zoning regulations would be reviewed and recommended by the Planning Commission, but would be the legislative responsibility of the County Commission. Without specific regulations, there is no administrative basis for applying subdivision or zoning standards for an airstrip or an airpark at present.

Attachment of questions posed by Mr. John Templeton follows, along with attachment of response from the TDOT Aeronautics Division.

Planning Commission Questions re new airport in Seymour

1. We've been led to believe that all it took to get this project underway was 5 acres of land and a grading permit. Is that it? All this disruption, potential danger, degradation and devaluing depends on nothing more than a grading permit?
2. Did this office issue a grading permit for the purpose of building an airport?
3. Is the construction of an airport considered so inconsequential that it bears no mention in the grading permit?
4. Did the commission know when the developer got this grading permit that he planned to build an airport?
5. Is this project defined as a subdivision or an airport or both or what?
6. The grading permit application notes that the developer must submit two (2) site plans and one (1) construction plan. Does this requirement apply to this project or not? Does the commission have these documents?
7. Does the developer actually own all the land that he is bulldozing?
8. Won't there have to be utility construction for this project? We understand that there is no water line to this property. How about electricity? Has this land passed a perk test? Does it have to? Before or after completion?
9. We understand that a plane has to be at least 500 feet in the air as it passes over a home. How is that going to be possible when at least one home sits a few yards from the end of the runway?
10. How many planes will operate from this property?
11. Can helicopters take off and land here? How about ultralights? Experimental aircraft? --any restrictions at all?
12. Is there a limit on the number of flights per day?
13. Is there any restriction on the hours of operation? Any time, day or night?
14. With Seymour Air Park only about a mile from this strip, is there a danger of collisions?
15. Considering the possible impacts of this project, wouldn't it make sense to have given the residents of the area some notice of the planning (if any) and to have taken the impact on the community into account?
16. The grading permit mentions inspections but it looks as if the developer himself does the inspecting. Is the inspection requirement on an "honor" system?
17. Has any member of the commission in an official capacity inspected this project? Is that required?
18. Does any member of the commission know what the FAA's responsibility for private airports is?

Request for information sent to TDOT Aeronautics Division send via e-mail 10-29-08:

I am Director of Planning in Blount County. Please provide information on any State regulations, required permits and design guidelines for residential airparks. The residential airpark type is composed of a limited number of residential lots or homesites with adjacent commonly owned airstrip for personal use of residents only. Thank you for your kind consideration.

John Lamb

Response by TDOT Aeronautics Division received via e-mail 10-30-08:

Thank you for contacting our office concerning residential airparks in the State of Tennessee. Pursuant to your request, please be advised that current Department of Transportation, Aeronautics Division, airport licensing regulations do not require that private airparks be licensed by the State. There are certain restrictions to the type of activities that can be conducted on private airparks that are spelled out in the attached licensing standards. A copy of the airpark regulations restricting these activities on the field will need to be forwarded to our office.

However, if activities on the facility warrant a Public Airport License, the airport need to be designed to the minimum standards stated in the Tennessee airport licensing regulations. We require that our application for site approval, that is included within the airport licensing standards, be filed with our office. We will conduct an initial airport inspection prior to opening to issue your license for public-use and conduct routine annual inspections to renew your license for your airport.

Furthermore, the Federal Aviation Administration (FAA) requires that anyone establishing a public or private airport throughout the United States, complete their form, "Notice of Landing Area Proposal" (FAA Form 7480-1), which is also attached. In addition, FAA requests that you attach a county road or quad map highlighting the proposed site. These items should be mailed to the following address:

Federal Aviation Administration
Airports District Office
3385 Airways Boulevard, Suite 302
Memphis, Tennessee 38116-3899

Be sure to indicate on the form the type of use based on the State's standards.

Paul A. Perry, Transportation Planner
TDOT Aeronautics Division
PO Box 17326
607 Hangar Lane
Nashville, Tennessee 37217
(615)532-5238

(NOTE: Attached to the e-mail were 1987 version of "Rules" for licensing of airports, updated 2003 version found also at

www.tennessee.gov/sos/rules/1680/1680-01/1680-01-02.pdf

and FAA Form 7480-1 found also at

<http://forms.faa.gov/forms/faa7480-1.pdf>)