

Airport Zoning
Nebraska Planning and Zoning
Association Annual Conference
Thursday, March 31, 2011
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My Grandpa Carl

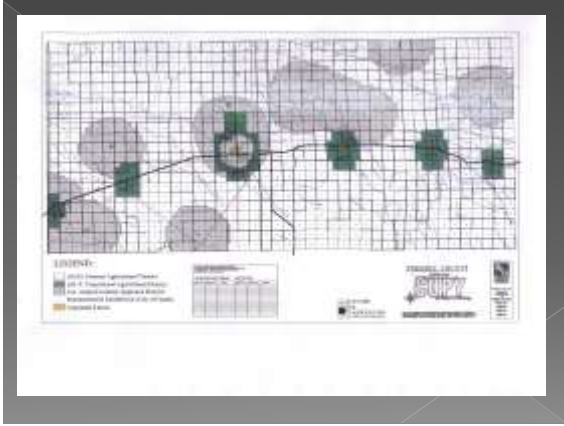


My Grandma Rosie and Grandpa Carl









- A whistle-blower was submitted that a private airport was being constructed within 3 miles of the Grant Airport in March, 2007, and again in November, 2008.
- It was an over-sight of the Planning Commission to not include a conditional use for new private airports.
- The private airport that was whistle-blown on had already received a "no objection" with provisions from the FAA.
- At first, the owner claims that the runway would be a "recreational use"; a listing under Conditional Uses. Later, he claims it would be an "agricultural use", which is outright allowable under the Perkins County Zoning Regulations. I disagreed.

- After consultation, I write a letter to the FAA because I learned that he had applied for a "designator number", and if obtained, would give his airport preference over any planned construction at the Grant Municipal airport.

I also write it because he did not have local zoning approval for the runway. Later, I learn that his application was withdrawn due to falsified information on the application.

- An appeal was made to the Board of Adjustment regarding my determination that a runway is not an agricultural use.
- The public hearing with the Board of Adjustment is held September 21, 2009.

My main arguments:
the definition of "Use": The activity for which land and buildings is actually arranged or maintained.

also the definition of "Agricultural Use": The business and science of cultivating the soil, producing crops and farming, forestry or orchards and the non-commercial storage and processing of agricultural products produced on the premises, provided that such use shall not include any CAFO.....(etc.)

Their main point: A Kansas Supreme Court case; (Miami County vs. Svoboda, 955 P .2d 122 (Kan. 1998)

The Board of Adjustment upheld my determination, and 15 days later, they do not appeal it to district court.

Any private airports (or other development) that apply for permits through the FAA may be approved, even within 3 miles of a public airport. **They leave it up to LOCAL zoning to protect the 3 miles surrounding a public airport.**

The FAA can require **repayment** of federal funds given to a public Airport if obstructions are allowed to be built within 3 miles. They can also **withdraw** future federal funds for projects at an airport. **Every public airport that has received grants from the FAA has Grant Assurances they must meet.**

Basically, the FAA can't (won't) tell you what you can/can't do within those 3 miles, **but** they can withdraw from any cost share or grants in the future because of any development you allow within those 3 miles.

It's really important that we (as local Planning and zoning persons) know how to protect each public airport in Nebraska!

<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>

Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)

Go to this website to sign up for Automatic notifications of obstruction and airspace determinations

Some reasons to protect your public airport:

- *Flight for Life relies on good, public airports.
- *Visiting Dr.'s need a good public airport.
- *Economic development could be impeded if there's not A good public airport.
- *Spray pilots rely on a public airport for their livelihood.
- *Wind generation could have a very negative impact on aeronautics. (However, these issues can be addressed...)
- *Future fighter pilots need a place to get their private license!
- *Future plans at a public airport could lose funding and not be completed.

Your public airport may have 2 airport boards:

An Airport Advisory Board

they have jurisdiction over the airport property itself, and really have nothing to do with zoning, but deal with issues on the ground, such as: who is the FBO (fixed base operator), fuel sales, hanger rental, etc.

An Airport Zoning Board

They have jurisdiction over airspace 3 miles Surrounding a public airport UNLESS: there is a municipality or county that has a comprehensive plan and zoning regulations within those 3 miles.

If you have a public airport, you also have An "airport zoning board". The board previously held the airspace Jurisdiction 3 miles surrounding a public airport.

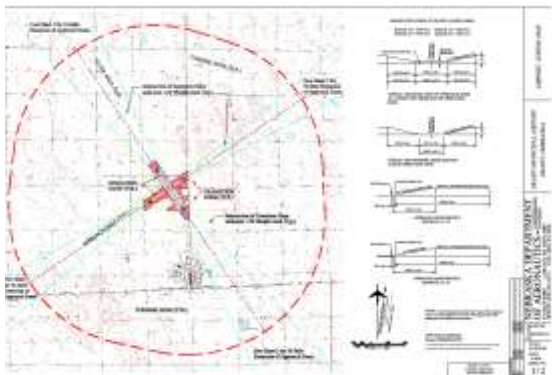
With the passage of **LB512 in 2010**, if in that 3 miles, another municipality or County has a comprehensive plan and zoning regulations, the Airspace jurisdiction passed to that municipality or County.

In Perkins County, the jurisdiction is shared between the City of Grant's Planning Commission and the County's Planning Commission.



If there's no municipality or county with zoning
In the 3 miles surrounding a public airport, the
Airspace Zoning jurisdiction for the 3 miles
stays with the current airport zoning board.

- ❖ With the passage of LB512, the Department of Aeronautics has recommended regulations for you to adopt. If you already have airport zoning regulations, you need to check to make sure the regulations you have in place are in line with the recommendations of the NDA (Nebraska Dept. of Aeronautics).
- ❖ There should be an "official" airport zoning map. If you don't know where it is, check with the city clerk of the municipality or county that has zoning jurisdiction in that area, or contact The Nebraska Department of Aeronautics.
- ❖ There are different zones shown on every airport zoning map that should be explained in your zoning regulations:
The Operation Zone, the Approach zone, the Transition Zone, and the Turning zone.



Some of the other regulations Perkins County is set To adopt soon regarding private airports include:

*requirement of cell towers to be set back a Distance of 40:1 from existing private runway approaches, and 7:1 on the sides of a runway.

*requirement of agricultural buildings taller Than 132' to be set back a distance of 40:1 from approaches, and 7:1 on the sides of a runway. Because Ag Buildings are currently Exempt from the zoning regulations, a requirement is being added To make structures taller than 132' get a zoning permit.

*requirement of wind generation towers to be set Back a distance of 15 rotor blade diameters from all sides of a Runway.

In Perkins County, All new private airports must:

1. obtain a "no objection, no objection with Provisions, or objectionable determination" from the FAA prior To applying to the county, and shall abide by all conditions set By the FAA in that determination. Any conditions noted in the Document may form the basis for denial of the Conditional Use.

2. Such airports shall not be so located as to prohibit Federal funding for the location, expansion or improvements of Public airports.

3. All runways shall be set back from any residence, church, School, or places of public assembly, excluding the owners, provided That the residence, church, school or place of public assembly a Minimum horizontal set back of 2,000 feet beyond the end or side of the Required runway length, except for the residence and buildings of the Runway owner.

(con't)

4. An aircraft that is approaching or departing from the runways Of a private airport shall meet all FAA fly over minimums.

5. A private airport may construct closer to an existing building Or structure, provided that they receive an impact easement From said property owner. The impact easement shall describe The benefited and burdened parcels and shall run with the land.

LB 352 is in the Gov't, Military and Veteran's Affairs committee. This bill would require airport Zoning in the approach zones 10 miles out in the approach Zones.

Right now, this is still in committee. If passed, it will Require updates of all zoning maps to include the approach Zones surrounding public airports.

Questions?

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