
Proposed Shooting Range

3 messages

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Mon, Sep 4 at 12:23 PM

To: Loren VAN OVERSCHELDE <lorenvanoverschelde@gmail.com>

Loren:

This E-Mail is intended to summarize the relevant Davison County Zoning Ordinances, as well as provisions from the NRA "Range Source Book." Feel free to forward this as you see fit.

The Davison County Zoning Ordinances are very similar to other Ordinance schemes I've dealt with. The Ordinances identify several different "zones" within the County, including "Agricultural" zones. The provisions related to "Agricultural" lands identify what uses are permitted without any County involvement. The provisions also identify certain uses that require a "Conditional Use Permit." A Conditional Use permit is defined as follows:

*"Conditional Use -- A conditional use is a use that **would not be appropriate**, generally or without restriction, throughout the zoning district, **but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare**. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance."*

Notably, the burden is upon the party seeking the permit, to show the shooting range will **promote** public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare for people in the County proper. Now, it would seem that the range *might* promote the economic interests of the City of Mitchell (and the interests of the people who would use the range), but only at the **expense** of the health, safety, welfare. . . of those folks who live nearby. It is not clear how the range would promote the general welfare of those in the "neighborhood."

The term "Shooting Range" is defined in the Ordinance:

"Shooting Range -- An area or structure specially designed for the safe discharge and use of firearms and/or archery on a regular basis by shooters other than the land owner."

From my review of the City's Conditional Use Permit Application, it would appear that what the City intends to build, would fit within the definition of a "Shooting Range." However, the Ordinances prohibit the City from creating a range that constitutes a Nuisance. See Ordinance Section 2:14:

"Section 2:14. Nuisance Property -- Property shall be free from any person unlawfully doing an act, or

omitting to perform a duty, which act or omission: 1) **Annoys, injures, or endangers the comfort, repose, health, or safety of others;** 2) **In any way renders other persons insecure in life, or in the use of property;** 5) **Fails to encourage aesthetic standards and design requirements to maintain and improve the county's visual appeal and image, to include towers and signage. . . .**

Very clearly, a poorly sited shooting range will annoy, injure or endanger the comfort, repose, health and safety of others in the vicinity; such may also cause people close by to feel insecure; such may also **negatively affect the value of adjoining properties,** and lead to a negative image at least for property in the area.

From what I can see, the Davison County Ordinances do not contain any specific provisions regarding the citing or layout of a "Shooting Range." However, there is a valuable resource (regarding citing and development) available through the **National Rifle Association, called the "NRA Range Source Book."** You can find a complete version On Line. The Book contains several provisions relevant to this matter:

-Article 1, 1.02.3: "Besides meeting the objective of allowing the range to function for particular shooting purposes and other functional considerations, an important concern is that the range satisfy reasonable expectations of safety for range participants and the public at large. **A determination that a range satisfies such reasonable expectations can only be made by a thorough professional evaluation of the range.**"

-3.04.2: "Proper design work requires a practical understanding and knowledge of local ordinances, codes and engineering principles. Therefore it is recommended that an engineer, architect or consultant experienced in range planing and design be consulted form the outset of the project."

-3.04.4: "During the planning and design phases of the project, safety must be paramount. Remember that health and safety considerations are twofold: 1) ensuring the health and safety of participants, staff and spectators, and 2) **ensuring the health and safety of surrounding inhabitants. Unless both of these aspects are incorporated into design criteria, the range will soon experience problems.**"

-Article 2, 2.04.1: "**Prior to site selection, decisions must be made based on the above stated alternatives.** Remember, **do not attempt to force a facility onto a site.** Rather, find, evaluate and select a site that will accommodate the required facility. In too many cases, a parcel of land is purchased with visions of the ultimate range facility, only to find out during the planning phases that the parcel is inadequate. . . . To determine if a site is suitable: (consider) additional criteria: 5) **Property values should also be considered, especially in areas were urban growth is aggressive.** Escalating property values often make it unwise to locate in a particular area; **Select the site that meets or exceeds acceptable standards for safety, sufficient space, ease of access, acceptable zoning, community acceptance,** construction costs, acquisition of land, and future land values."

-2.07 "To develop a successful community relations program, cultivate goodwill with neighboring residents and landowners. This can be achieved by demonstrating a sensitivity to concerns for safety and health. Show them how the range design and **safety pan** will provide for their safety."

-Article 3, 3.02.2 "Sound Transmission: No set distance eliminates noise complaints entirely. However **studies conducted for the Environmental Protection Agency (EPA) indicate noise complaints are**

likely when inhabited dwellings exist less than one half (1/2) mile from the facility."

-The NRA Book contains a site evaluation questionnaire, found in the Appendix to Article 5; that questionnaire includes the identification of inhabited dwellings located within 1/2 mile, between 1/2 mile and 1 mile, and so on.

-The NRA Book includes an entire Section related to developing a "Safety Plan" (see page 1-2-3 et. seq.).

-Site evaluation section (See p. 1-3-15): "One an evaluation has been completed for each site, examine each item to determine how well it fits the ideal. For example, the questionnaire asks the evaluator to check those items that most closely match the site characteristics. . . . **example: Site one is more than five miles from the closest neighbor, site two is less than two miles and site three is within a few hundred yards. Based on the fact that firing ranges generate sound, site one would be ideal.**"

-Chapter 6 -- **Sound Abatement: "Noise from a variety of sources has been found to reduce the quality of one's life. . . . Shooting ranges reproduce high levels of sound.** Sound waves often travel beyond the boundaries of the range property. **Escaping sound waves may be perceived as unwanted community noise by neighboring property owners.** It is important for range owners and operators to work with the local zoning board. **Shooting ranges should be highlighted as noise parks. . . .** Developing **good public relations with the range neighbors and community at large is essential.**"

The NRA Field Book is several hundred pages long and is very comprehensive. Very clearly, the NRA supports the concept of being a good neighbor -- the Book recommends public outreach prior to a site even being chosen. In fact, it can be fairly argued that **the NRA would very much prefer that the range be supported by all of the neighbors. . . so as to cultivate good will with the public.** (Gun owners and sportsmen/women should always look for ways to foster good will with the public.) As such, the NRA would very much prefer that the siting of a shooting range not be the subject of protest and bad press in the community. This is why the Book contains many recommendations about "selling" the project to the community prior to moving forward with the permitting process.

Unfortunately, what has happened here, is that the City has going through the process backwards. The City is now asking for a conditional use permit, without having **first** performed the evaluation and PR steps recommended by the NRA. This places the Planning Commission in the unfortunate situation of now having to make a recommendation which will anger one party or the other and create controversy -- a no win situation for the Planning Commission. This is exactly the situation the NRA wants to avoid -- this is the reason the NRA compiled the Range Source Book (to help applicants site and develop shooting ranges in such a way that fosters community support and avoids controversy. As such, the Planning Commission would be well served to recommend that the Board of Adjustment deny the application, and require the applicant to follow the NRA Range Source Book recommendations -- by looking for a site which will not be the subject of controversy.

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Mike C. Fink