

LEAVENWORTH COUNTY PLANNING COMMISSION
MINUTES OF THE REGULAR MEETING
March 12, 2025

The complete recorded meeting can be found on the County's YouTube channel.

The Planning Commission meeting was called to order at 5:30 p.m.

Pledge of Allegiance

Members present: Jaden Bailey, Allan Stork, William Gottschalk, Jeff Spink, Doug Tystad, Robert Owens, Marcus Majure, Steve Skeet and Dan Clemons

Members absent: Steve Rosenthal

Staff present: John Jacobson-Director, Amy Alison-Deputy Director, Misty Brown-County Counselor, Jon Khalil-Asst. County Counselor, Dawn Chamberlain-Planning Coordinator.

Minutes: Commissioner Stork made a motion to approve the minutes. Commissioner Tystad seconded the motion. Abstain: Commissioner Owens.

ROLL CALL VOTE - Motion to approve the minutes passed, 7/0 (1 abstain, 1 absent)

Declarations: None.

Secretary's Report: Amy Allison gave the secretary's report going over the agenda, which included 3 consent items, 2 plat requests and 1 SUP request.

ROLL CALL VOTE - Motion to approve the agenda passed, 8/0 (1 absent)

Commissioner Stork made a motion to approve the agenda. Commissioner Clemons seconded the motion.

Regular Agenda

A. Case DEV-24-147 Final Plat – Cheyenne Crossing 2nd

Consideration of a Final Plat for a tract of land in the Southwest Quarter of Section 32, Township 11 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.
Also known as 00000 178th Street

Amy Allison gave the report going over the request indicating the preliminary plat was already approved. During the design stage of the final plat, some of the lot lines changed requiring the need to reduce the frontage on Lot #9. The applicant is requesting an exception to allow the frontage to be measured at the building setback line rather than at the right-of-way.

Chairman Majure stated this action includes 1 Exception and an approval of a Final Plat.

Commissioner Tystad motioned to approve the Exception. Commissioner Owens seconded.

ROLL CALL VOTE - Motion to approve the Exception passed, 8/0 (1 absent)

Commissioner Tystad motioned to approve the Final Plat. Commissioner Clemons seconded the motion.

ROLL CALL VOTE - Motion to approve the final plat passed, 8/0 (1 absent)

B. Case DEV-24-157/158 Preliminary and Final Plat – Elston Estates No. 2

Consideration of a replat of Lot 2, Elston Estates, a subdivision of land in Leavenworth County, Kansas. Also known as 00000 Kansas Avenue

Amy Allison gave the report stating that the 5-lot subdivision is located outside of Tonganoxie. The subdivision has a pond towards the center and applicant is proposing putting the pond in a track of land, but that has caused an irregular shaped lot. The other lots are compliant with the standards of the RR-5 district.

Commissioner Tystad confirmed the final plat subdivision is zoned RR-5 and also on County Line 1. Amy Allison reminded Commissioners that a re-zoning was approved from the former PR-2 zoning. The applicant had requested to revert back to RR-5 which was previously approved by Board of County Commissioners.

Commissioner Clemons motioned to approve the Exception and Commissioner Tystad seconded the motion.

ROLL CALL VOTE - Motion to approve the Exception passed, 8/0 (1 absent)

Commissioner Tystad motioned to approval the Final Plat. Commissioner Clemons seconded the motion.

ROLL CALL VOTE - Motion to approve the exception passed, 8/0 (1 absent)

C. Case DEV-24-125 Special Use Permit RJ Farm

Consideration of a Special Use Permit request for an amusement park, commercial athletic fields, racetracks, circuses, carnivals and fairgrounds for outdoor events on the following described property: Lot 1 in Whispering Plains, a subdivision in Leavenworth County, Kansas, according to the recorded plat thereof, in Leavenworth County, Kansas. Also known as 21985 Cantrell Road

Amy Allison gave the report stating that the request is related to a fairgrounds and the request was previously heard at the January Planning Commission meeting. The Board of County Commissioners did consider the Planning Commission's recommendation but due to weather conditions on the night of the Public Hearing and additional information that was received by the Commission, the Board remanded the case back to the Planning Commission to convene a new public hearing.

Assistant County Counselor Jon Khalil indicated that the case was sent back to planning commission based upon a motion which included several conditions the Board of County Commissioners requested the Planning Commissioners would consider. Consideration should be given to adding conditions for certification of Security on Premises by Law Enforcement Officers or Private Security, licensed Alcohol Vendors/Servers, certification that all Federal, State and Local laws are being complied with during events, certification that all animals comply with State registration or vaccination requirements, assurance that no tail-pulling or horse tripping occur during any event, an engineering report submitted for bleachers on the property, an increase the recommended Liability Coverage for the County and a requirement that a licensed veterinarian be on-site during rodeo events.

County Counselor Misty Brown addressed that these proceedings were not typical, yet the matter requires a public hearing and the additional conditions should be considered when making a determination.

Commissioner Stork questioned why the matter is being addressed a second time asking if there is a timeline requirement. Commissioner Owens questioned why the matter was back before the Planning Commission.

Chairman Majure indicated that the previous meeting did not address the possibility of a security guard on site and other good recommendations from the Board of County Commissioners.

Director John Jacobson stated the BOCC has provided additional criteria for the Planning Commission to consider before a final determination is made.

County Counselor Brown stated that because of weather conditions during the prior Planning Commission meeting, the BOCC felt it necessary to hold a public hearing to provide an opportunity for other evidence to be provided.

Commissioner Owens outlined the history of the SUP application process and timeline. Chairman Majure spoke of the importance of the issues raised related to the SUP and that considering them in a final decision will "make it right". Chairman stressed that this is important based upon the concerns of others and the owner alike.

Director Jacobson added that he believes the intent of the BOCC was to consider the additional conditions; but not necessarily include them in the final determination.

Commissioner Tystad asked if they needed to have a condition that says you "must follow the law"? Director Jacobson confirmed an SUP in Leavenworth County must follow all local and state and federal laws".

Chairman Majure opened the Public Hearing.

Joe Herring of Herring Surveying spoke concerning the Applicant's property. Mr. Herring indicated that there are no bleachers provided at his client's events. Mr. Herring referred back to Exception #15 "no amplifiers for live music events". Mr. Herring stated that his client does intend to have live music and Mr. Herring is aware other venues who provide live music under an SUP utilize amplifiers and microphones. With that said, Mr. Herring requests that that condition be amended to remove the no amplifiers sentence.

Commissioner Stork questioned if given the stipulations by the Board of County Commissioners, is this particular SUP feasible? Mr. Herring reminded the Commission that there are various similar SUP's in the County and the RJ Farm SUP should be handled in the same manner.

Commissioner Owens mentioned a letter that states the condition of the stage was inspected and verified again that the property has no bleachers.

Commissioner Tystad commented that he addressed the amplifier condition at the previous Planning Commission meeting and that the applicant understood the restriction. Director Jacobson reminded the Commissioners that the BOCC asked that these items be consider but not part of the conditions for approval. In addition, Director Jacobson clarified that the issue that is paramount is the decibel level at the property line.

Commissioner Clemons asked for clarification of Class 3 SUP. Deputy Director Allison indicated a Class 3 SUP is a use that can be suitable in residential areas but can have a detrimental impact to surround properties such as noise or lights. Director Jacobson added staff's recommendations are based upon intensity of use, but not bound by that recommendation.

Chairman Majure asked those in favor of the request to speak.

Gary Nelson, attorney representing RJ Farms spoke about the materials he has received and specifically a memo from Sheriff Dedeke, where he indicated all of his concerns were unconfirmed. Sheriff stated that RJ Farms has had over two decades of activity; yet there has not been one criminal complaint filed. Mr. Nelson reviewed material from Crystal Blackdeer of the Leavenworth County Humane Society indicating concerns about horse tripping and tail pulling. Mr. Nelson mentioned photos of this activity that appeared to be captured from social media but was no evidence of that the activity occurred on the RJ Farms property or that any complaints were filed with the Sheriff's Department. These photos indicate unsupported speculation. As for security, RJ Farms has hired Elma Security (typically 6-8 people on-site for the events throughout the years).

Also, Mr. Nelson indicated that his client is in the process of seeking a Kansas Agritourism Promotions Act Registration, which is through the State of Kansas. Mr. Nelson has not yet confirmed what regulations have been placed on other rodeos or Agritourism in the county, such as corn mazes and wineries. Mr. Nelson reiterated that RJ Farms has operated over two decades without a single criminal complaint, no traffic accidents, etc.

Commissioner Owens asked Mr. Nelson if his client is aware that tail pulling and horse tripping is illegal in the State of Kansas. Counselor Nelson responded that the roping aspect occurs as a skill, but without pulling the rope to bring the horse down.

Tystad asked Counselor Nelson why his client waited 20 years to apply for the Special Use Permit considering he received a letter from the County attorney stating he needed a SUP. Instead, RJ Farms applied for a temporary SUP in 2024 and a SUP in early 2025. Mr. Nelson responded that it appeared no other rodeos in the County held a SUP.

Property owner Aurello Haro, owner of RJ Farms) stated he preferred not to repeat information that has been presented at the prior Planning Commission meeting. Mr. Haro indicated he did apply for a Special Use Permit in 2016; however he felt that the opposition to his SUP is based upon "special favors" for an former Commissioner. That same Commissioner claims there was a massive shooting at RJ Farms. Mr. Haro stated that is simply not true. Mr. Haro stated there is no horse tripping on his property and he believes those in opposition of his rodeos is based upon their dislike of "Hispanic people". Mr. Haro added that he has fully complied with 26 conditions for the Special Use Permit.

Chairman Majure asked about tail pulling. Mr. Haro responded that it is legal in Kansas, along with Texas, Colorado and Wichita, Kansas.

Commissioner Owens asked Mr. Haro to confirm if photos were taken on his property. Mr. Haro confirmed one photo was indeed taken of his son's colt that had died of colic. Commissioner Owens asked if Mr. Haro and his attorney are comfortable with providing security, hiring a licensed beer vendor and a licensed vet on the property.

Mr. Haro referred to an alcohol vendor friend who applies for one day events and stated he hires security for every event.

Commissioner Tystad challenged Mr. Haro by stating he had advertised his rodeo events without a Special Use Permit. Commissioner Bailey asked Mr. Haro about requirements for bringing horses from out of state. Mr. Haro explained they typically do not have horses from out of state, but if they do documents are required by American Rodeo Arena.

Commissioner Tystad asked Mr. Haro why he doesn't hold his events at the County fairground? Mr. Haro explained that there is never a guaranteed number in attendance at his events. Therefore, it's not financially feasible to rent the fairgrounds, pay for portables and security because of the unpredictability of attendance.

Deputy Director Allison clarified the regulation concerning Private Events. Director Jacobson further explained the difference between a Temporary Special Use Permit and a Special Use Permit.

Commissioner Tystad asked further questions about having a vet at the events. Director Jacobson responded that from a regulatory standpoint, this is the reason Staff inserts the following language in the SUP, "comply with federal, state and local requirements".

Mr. Billy Ray McGee spoke in favor of the SUP at RJ Farm. Mr. McGee stated he has attended most of the Haro events since 2012 and mentioned there "had never been bleachers" on the property. Mr. McGee spoke about his knowledge concerning noise and security that has been hired for RJ Farm in the past.

Norma Brockenberry (co-owner) spoke about their appearances at Planning Commission and Board of County Commissioner meetings, along with her frustration in the process of granting the SUP. Ms. Brockenberry spoke about their care of the animals and stated that they do not trip the animals at their rodeos.

Commissioner Clemons asked if the owners would be agreeable to having a vet on call. Ms. Brockenberry confirmed they would that they already have a vet on call.

Commissioner Bailey asked Ms. Brockenberry to clarify the process of handling the animals at the rodeos, and specifically tripping and tail pulling.

Deputy Counselor Khalil cited the Kansas cruelty to animals statute. Discussions ensued.

There was a brief break of the meeting.

Chairman Majure asked those not in favor of the request to speak.

Dr. Joan Murnane, an active large animal veterinarian spoke about her qualifications and stated that she was in attendance to address horse-tripping and bull-tailing in Mexican rodeos. Dr. Murnane stated that horse-tripping is illegal in Kansas and 17 other states and clarified what horse-tripping entails. Dr. Murnane explained regulations and the history of certain specific practices that fall under the category of cruelty to these type of animals.

Commissioner Bailey asked for clarification from Dr. Murnane and stated that “unless there is evidence of these activities, the Planning Commission is not the authority that evidence would come to”. Dr. Murnane referred to the photos she submitted to the County and stated that the evidence is there from 2009 through 2024 that horse tripping has occurred. Dr. Murnane further added that there were numerous complaints and that the Sheriff had sent a letter to the County Commissioners requesting that the SUP not be issued.

Commissioner Owens shared a large photo with Dr. Murnane stating that it appeared to be a man holding a cow tail. Further discussions ensued

Dennis Bixby, a former County Commissioner, spoke to clarify the issue of security and compliance of the many conditions. Mr. Bixby stated he believes a compliance officer should be in place to monitor the events on the RJ Farm property. Mr. Bixby spoke about the value of a higher liability insurance policy (potentially \$10 million in coverage for potential injuries). Mr. Bixby then presented two poster boards to the Planning Commission explaining where they hold their events and spoke about compliance for handicapped folks that may attend the events at the RJ Farm. Mr. Bixby explained the potential annual income for the events if the admission fee is \$40.

Crystal Blackdeer, Director for Leavenworth County Humane Society, apologized to the Planning Commission if any of the photos she submitted were a misrepresentation of the events at RJ Farm. Ms. Blackdeer stated that verification is needed on important concerns and re-stated the statute on cruelty to the animals typically performing at the RJ Farm. Ms. Blackdeer addressed the PC by saying the owners of the RJ Farm did state that they did rope the animals at the previous meeting and that would, in fact, be a violation of the statute.

Ms. Blackdeer stated that employees or agents of the County should be allowed access to the property to ensure conditions of the permit are being adhered to.

Commissioner Bailey stated that he believes this particular case and other SUP's, that the approved conditions need to be followed, but he's not sure if the County Inspector would be able to inspect every activity of every business every time something is held.

Commissioner Tystad added that's a discussion with BOCC was more about how do we ensure compliance and that is a regulatory item to be monitored.

Director Jacobson stated that we reserve the right to spot check these events at the County's discretion, either by the BOCC or anyone who works for the department of Planning & Zoning.. Mr. Jacobson confirmed it would become a code enforcement issue and is handled by the Planning & Zoning Department.

County Counselor Brown stated that one of the directives when she was hired was to ensure that codes court was back up and running”. Ms. Brown confirmed the County now has a regular Courts docket and she personally prosecutes.

Julie Downes spoke in opposition of the SUP, addressed the Planning Commission by stating that it was addressed in the last four meetings that there has been a long history with the (RJ Farm) property. Ms. Downes stated that they have contacted the Sheriff, but they are only handling codes and there has been no one from the County in over 20 years that has gone and supervised the events at RJ Farm. Ms. Downes explained that she has documented the noise problems associated with the applicant's property and has shared this information with the County. Ms. Downes added that the owners of the property should have had a Temporary Special Use Permit for July 27, 2024, but no event was held. Ms. Downes further added that RJ

Farm was advertising on social media for these events and include phone numbers, links to purchase tickets, admission fees, event sponsors, the sale of alcohol, horse-roping, etc. Ms. Downes spoke about an event of June 17th which was one of six non-SUP events

Commissioner Tystad asked Ms. Downes how far away their home is from the stage. An estimate of 700-1,000 feet was mentioned. Commissioner Owens again raised the issue of the sound and lighting of the stage near the property line.

Commissioner Tystad asked about how many events were held in 2024; Ms. Downes stated there were none. And in 2023, Ms. Downes states that there were three events.

Deputy Director Allison stated there were emails with attachment that were received after the hearing packet was prepared and shared with the Planning Commission members.

Chairman Majure closed the public hearing.

Commissioner Owens confirmed with County Counselor Brown that applicant failed to have a Special Use Permit and the reason for the meeting was to work on compliance of their activities on the applicant's property. Ms. Brown concurred

Commissioner Tystad reminded other PC members of the conditions raised by the BOCC. This involved security, the restrictions of the sale of alcohol, and following the applicable laws. Commissioner Tystad suggested a specific clause referring to the act of horse-tripping. Other Commissioner disagreed indicating they believe that would not be necessary.

Commissioner Tystad added that animals would need to be properly licensed and stated he did not personally believe support the idea of increasing liability insurance. The commissioners discussed the need for an on-call vet and agreed it may not be needed.

Commissioners discussed and agreed the issue of amplifier limitation should be 60db level, which is consistent with other SUP's.

Director Jacobson clarified the noise issue from amplified sound and the safety of the animals on the property. More discussions ensued.

Deputy Director Allison reminded the Planning Commissioners that Staff's recommendation for the duration of the SUP remains the same; five years. The Commissioners agreed that a one-year duration would be appropriate to ensure regulations would be followed.

Chairman Majure mentioned the Sheriff's letter regarding the violations by the applicant. Director Jacobson stated that there were approximately 100 complaints by phone over the course of ten years. The complaints resulted in two traffic violations without citations. Discussions ensued.

Commissioner Tystad motioned to approve the Special Use Permit as it complies with the Golden Factors and based upon Staff recommendations. Tystad recommended the clause for amplifiers be removed and all state and local laws be followed and in particular horse-tripping. Tystad also added the applicant must be able to provide a licensed on-call vet to be available when advertising for a rodeo function as part of the SUP. Lastly, the duration of the SUP to one year.

Commissioner Owens seconded the motion.

ROLL CALL VOTE - Motion to approve the Special Use Permit passed, 8/0 (1 absent)

Director Jacobson suggested the work session with the Planning Commissioners be pushed to a later date.

Meeting was adjourned at 8:27pm.