

**LEAVENWORTH COUNTY PLANNING COMMISSION
MINUTES OF THE REGULAR MEETING
January 08, 2025**

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

The Planning Commission meeting was called to order at 5:36 p.m.

Pledge of Allegiance

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

Members absent: Jeff Spink, Jaden Bailey and Steve Rosenthal

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

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

ROLL CALL VOTE - Motion to approve the minutes passed, 6/0 (3 absent)

Secretary's Report: Amy Allison gave the secretary's report going over the agenda.

Declarations: Commissioner Tystad stated that he received an email from a concerned citizen regarding DEV-24-125. Chairman Majure stated he received multiple phone calls regarding the matter and would (recuse) himself from voting.

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

ROLL CALL VOTE - Motion to approve the agenda passed, 6/0 (3 absent)

Regular Agenda

A. 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

PID: 222-09-0-00-00-002.07

*****Public Hearing Required*****

*****Public Comment limited to three minutes per person*****

Amy Allison gave the staff report outlining the details of the Special Use Permit request.

John Jacobson confirmed Staff recommends that there be a time limit for the Special Use Permit. In this case, the recommendation is 5 (five) years.

(There were technical difficulties and a break was taken).

Amy Allison again provided a synopsis of the staff report indicating that property owner would operate a fairground and host a total of 15 events per calendar year. The hours would be 12:00pm – 11:00pm and the maximum number of attendees for the events would be 300. The types of events would be rodeos, birthday parties, weddings, concerts, etc. The applicant proposes 400 parking spaces to accommodate the attendees, contestants, employees. The permit application included details regarding vendors for the events that would sell food and retail items, but no alcohol.

Commissioner Clemons asked why No Alcohol was not listed as one of the conditions of the Special Use Permit. Director Jacobson indicated the narrative regarding Alcohol on Premises is the condition.

Commissioner Skeet asked if the Special Use Permit can be revoked if the conditions are not met. Director Jacobson confirmed, the SUP can be revoked and goes through the same process in revocation as in approval. Not complying with the conditions is, in fact, grounds for revocation.

Commissioner Tystad questioned the change in the number of events. Deputy Director Allison confirmed the applicant originally requested a total of 52 events per year, but after learning of public comments and concerns reduced that number to 15 events per calendar year.

Commissioner Clemons questioned if a third-party on premises sold alcohol, would that be a violation of the SUP. Director Jacobson confirmed that would be a violation and according to the narrative, no alcohol is to be sold on premises.

Chairman Majure questioned that if alcohol sales occur and is verified, would the Special Use Permit be revoked. Director Jacobson confirmed, the permit would be eligible for revocation. If found in violation, the Board of County Commissioners can request that the revocation process begin.

Chairman Majure opened the public hearing.

Surveyor Joe Herring thanked Staff and spoke on behalf of the applicant outlining the proposed private events for the Special Use Permit. Mr. Herring indicated the applicant reduced the parking spaces from 400 to 300 and was essentially in an open field with no markings. The applicant will have help with parking and making sure there is two-way traffic in case of an emergency. Mr. Herring indicated the applicant has previously had a Temporary Special Use Permit, which was recommended by Staff without complaints.

Mr. Aurelio Haro, a part owner, spoke in favor of the request for a Special Use Permit. Mr. Haro indicated that they have been hosting Mexican rodeos for "several decades" and it has become a family tradition that he encourages his children to continue.

Commissioner Stork asked Mr. Haro if there were any formal complaints after the Temporary Special Use Permit. Mr. Haro indicated no and added that police officers have come onto premises and there were no orders to end the event.

Director Jacobson stated the last formal complaint was April 16, 2022 and was a traffic related. Additionally, there were a total of two traffic-related violations after 100 calls to the Police since 2010.

Ms. Norma Brockenberry spoke in favor of the request for Special Use Permit. Ms. Brockenberry indicated that the events are most times family events with children.

Commissioner Owens asked where the applicant is obtaining stock contractors from. Mr. Haro indicated that horses are brought in by their owners and steer are brought in by local owners.

Commissioner Owens also questioned if 3-10 employees would be enough to accommodate the traffic. Director Jacobson responded that yes, with additionally family helping, 10 paid employees should be enough.

Julie (and John) Downes spoke in opposition of the Special Use Permit based upon non-compliance. Ms. Downes raised concerns about past code violations, tax violations, the selling of alcohol without a permit and concerns about the treatment of animals at these events.

Ms. Downes spoke of photos and videos she has in her possession outlining violations on the Haro property. Chairman Majure indicated those items could not be reviewed because submission did not meet the deadline for the hearing.

Commissioner Skeet asked if Ms. Downes photos were of one Haro event or several. Ms. Downes confirmed the photos encompassed several different events.

Commissioner Owens asked why the photos and videos were not submitted in a more timely manner so they Planning Commission could review them. Ms. Owens indicated her health issues and holidays were an obstacle.

Counsel Misty Brown addressed the questions regarding the violations of the Temporary Special Use Permits that were brought against the applicants. Ms. Brown confirmed there were code violations because allegations were made that they were hosting events without a TSUP or a SUP. Ms. Brown did initiate a codes case against both applicants. The goal of the court case is to obtain code compliance. During this process, when looking at some of the events, some were private which would not require a TSUP or SUP. However, it was determined that there was, in fact, events that should have had an SUP. Working with the Court, the recommendation was if Haro were to become compliant and begin to apply for a Temporary Special Use Permits for the events, there would be no issue. It was expressed to property owner that if

compliance did not continue, the matter would again come back before the Courts. This process is designed to keep property owners in compliance and understand the conditions. Ms. Brown reminded the Commissioners that this is a Land Use matter. Decisions cannot be based upon allegations. However, if there is an actual charge or conviction, then Planning Commission decisions can be made based upon those items.

Chairman Majure confirmed regardless of hearsay or assumptions of what events are transpiring on the property, decisions of the Planning Commission cannot go into effect without a conviction. Counselor Brown confirmed this to be true and stated decisions need to be made upon the Golden Factors and the reasons for violations of the factors need to be stated.

Chairman Majure closed the public hearing at 6:42pm.

Commissioner Owens proposed the Commission grant the SUP request for 1 (one) year initially to be sure they remain compliant. If the applicant avoids violations, the Commission may grant a longer term on the next Special Use Permit. Commissioner Tystad concurred that a 5-year SUP is not warranted in this case. Commissioner Stork stated the SUP can be revoked at any time.

Discussions ensued within the Planning Commission.

Chairman Majure reminded the Commissioners that any decisions by the Planning Commission would then go before the Board of County Commissioners and the applicant is allowed to hold private events. Director Jacobson stated that private events are unregulated and the proposed 15 (fifteen) public events would be regulated.

Commissioner Owens questioned what occurs if the SUP is approved and at a later time there is a loud event with alcohol what will be done legally. Counselor Brown responded that if a Sheriff's report is received that the Special Use Permit has been violated, the attorneys would review the case and determine if there is sufficient evidence. A Notice of Violation would be issued which is then addressed before the Judge. Any potential charges would be a misdemeanor to include a citation and fines. If convicted, then the Commission may move to revoke the Special Use Permit.

Chairman Majure asked the applicant to define the cultural events. Surveyor Herring stated events would either fall under a public event which would be restricted per the Special Use Permit or a private event which is exempt per the regulations. The specific activities has no bearing on the Special Use Permit.

Commissioner Gottschalk asked for clarification on the definition of a public event. Meanwhile, Jacobson reminded the Planning Commission that this particular item on the agenda is to address Land Use as defined within the Land Use table. He further added which in this case the land use is a fairground, of which rodeos are an event that is allowed.

Deputy Director Alison shared the definition of a private event per the Zoning and Subdivision Regulations .

Commissioner Gottschalk questioned who regulates the use under the SUP. Ms. Allison stated that from a Land Use perspective, the Planning and Zoning staff and the Planning Commission regulates the use. And the Board of County Commissioners ultimately approve these regulations. With that in mind, the Commission was reminded that the applicant has requested use of the property as a "fairground" which allows them to hold public events. They are open to the public and charging a fee for admittance or for usage of that parcel.

Mr. Jacobson stated that taxation or any other elements would be considered by the State. The only items that we regulate at a local level is Land Use and any nuisances that may be created.

Discussion ensued.

Commissioner Tystad motioned for approval of the Special Use Permit based upon the request meets the Golden Factors and based upon Staff recommendations. Tystad proposed a 1-year time limit on the Special Use Permit. Commissioner Owens seconded the motion.

ROLL CALL VOTE - Motion to approve passed 5/1 (3 absent)

Commissioner Tystad motioned for adjournment and Commissioner Owens seconded the motion.

Adjournment of Planning Commission at 7:20pm.

Upcoming meeting dates:

Wednesday, February 12, 2025, 5:30 PM
Regular Planning Commission Meeting