

MINUTES  
HARVEY COUNTY REGIONAL PLANNING COMMISSION  
HARVEY COUNTY BOARD OF ZONING APPEALS  
Harvey County Courthouse  
Community Room  
June 3, 2014  
7:00pm

Members Present: Larry Goering, Bonnie Wendling, Wayne Alison, Philip Kimerer, Duane Miles, Harlan Foraker, Teresa Thach, Lynne Vigil, and John Reed

Members Absent: Jack Bender and Dorothy Thiessen

Staff Present: Gina Bell, Karen Jacobs, Gregory Nye

Others Present: John Stutzman, Espiridion Guevara, Adela Gutierrez, Abbie Guevara, Daphne Lee, Terry Jacob, Martha Sadiq, Jenna Quentin, Ruth Jacob, Jay Sizemore, Burke Lewis, Raymond Bretton, Abby Guevara, and Tanya Guevara.

At 7:00pm, Larry Goering called the meeting to order.

**Minutes from April were approved with a 7-0 vote. Motion made by Wayne Allison and Second by Duane Miles.** (Theresa Thach was not at the meeting yet)

Goering opened discussion on 2. CASE: Restlawn Garden's First Addition

A portion of the Northwest Quarter of Section 26 Township 23, Range 1W

Said property is located at 4619 US Hwy 50, Newton, KS 67114.

Gina Bell reported the City of Newton has asked to plat out the remaining plots at Resthaven Cemetery and to replat some of the existing plots that are not accessible. The property is A1 Zoning and cemeteries are allowed. Burke Lewis with the City of Newton and Raymond Bretton with the survey company were present to answer questions. The replat is because there is no access to the south lots. There will be access to the cemetery from both Hoover Road and the frontage road on Highway 50. All roads in the cemetery will be gravel type road and will not be highly traveled. The grade will fit the natural layout of the ground for drainage. There will be additional 2900 lots allowing for a projected 100 years of plots to be sold and occupied. Newton Parks and Recreation department will maintain the cemetery.

Harlan Foraker asked if there should be an easement included for the power lines? Bretton said he would need to contact Westar about the power lines.

**Miles made the motion to approve the Preliminary Plat, Final Plat and the Master Plan with the additional condition that the electric line issue along the west line be resolved. The vote was 7-1 with Bonnie Wendling opposing.**

**Goering asked for a motion to open the tabled discussion on Case #CUP 14-02 concerning a request by Espiridion Guevara (Speedy) and Adela Gutierrez requesting a Conditional Use Permit to operate a Horse Racing Track on property located in the A-1 Agricultural zoning district.**

**Alison made the motion to open the tabled item with Phil Kimerer seconding the motion. Vote was 8-0 to open the tabled item.**

Jay Sizemore, attorney for Guevara presented the changes that have been put in place since the last meeting. He had maps and photographs showing the area for parking as well as where fence is going up. Improvements include chain link fencing along track to keep spectators off the track. Signs have been putting up including No Gambling/Wagering and no glass containers as well as alcohol and spectator restricted areas. All signs in Spanish and English. He said the issues brought up that they are also addressing are that races will only be held in daylight hours, no sales of alcohol beverages will be taking place and wagering is not allowed. He said Guevara has a \$1 million liability policy. Sizemore sent out letters to all of the neighbors and received three phone calls in favor of the track. He received one phone call and one email against. He said none of the neighbors chose to meet with him.

Sizemore also added that due to costs there will not be water available at the track.

Also when asked about noise, Sizemore said if there are concerns it can be part of the permitting process to turn the music down or point the speakers toward the ground.

Sizemore said Guevara took a big leap of faith making the improvements without approval.

Thach asked if the LLC was complete yet? Sizemore said no, it was not. If it was something they wanted he could get it done within a day.

Foraker asked about a site plan? Bell told Foraker no new construction was being done. This has been existing so photographs tell more than a site plan. If new buildings are to be constructed at that time they would need a site plan.

Also agreed to by Sizemore was that there will be no overnight camping. He said it is not there intentions to grow or have increased races.

There was a discussion on fencing around the property and if there was a gate to keep the public out when races are not being held. Also, if the gate is opened or closed. The area is not locked up because training is done during the week.

**A motion was made by Wayne Allison to approve the conditional use permit for the track for 2 years with review and conditions of trash be picked up in timely manner, Guevara obtain a LLC, continue to carry liability insurance and continue to provide off road parking area.**

Concerns were brought up when it came to the conditions as to how deep the commission was getting into safety and operations of the business.

**After discussion the motion was amended to include the following :**

**Conditions:**

- **That the conditional use permit be issued for only Horse Racing events and the stabling of horses. This shall include live entertainment, as defined as skits and plays, music and dancing in conjunction with a racing event. All other events will require a special events permit that must be applied for at least one month in advance.**

Approved 7-1-2014

- **The developer will put protective fencing along the rails to keep people from coming under and will announce that spectators will stay off the track immediately before, during and immediately after the race.**
- **The developer will submit an application for any buildings to be erected on the property.**
- **The track owners will be cooperative with all state or local agencies pertaining to this activity.**
- **A liability insurance policy will be in place for the amount of at least 1 million dollars.**
- **This Conditional Use Permit will be reviewed in 2 years.**
- **This use is only for these applicants it will not be passed on to the next owner of the land, nor will anyone else manage or run the races other than the current applicants.**
- **No night races, no lights**
- **Liability insurance for LLC. (Currently only Speedy has the insurance.)**
- **Music needs to be reasonable**
- **If traffic becomes a problem the developer will hire qualified personnel to control traffic at the intersections of Hertzler and Halstead Roads and SW 72<sup>nd</sup> St before and after any event.**
- **Parking will be configured so that Emergency Crews can get to someone that is ill or injured. The plan shall be approved by Halstead Fire and EMS.**
- **The applicant will work with all State and local organizations with jurisdiction surrounding wagering.**
- **Proper licensing will be attained prior to sales of beer or liquor on premises.**
- **That the applicant will post signs stating that no alcoholic beverages, liquor and no wagering, be on the premises. All required signage will be in English and Spanish.**
- **That there will be at least a minimum of 8 porta potty's.**
- **The developer will maintain a trash service for trash pickup. All trash along the 10800 block of SW 72<sup>nd</sup> St shall be picked up within 48 hours.**
- **There will be no event parking on SW 72<sup>nd</sup>.**

**Kimerer seconded the motion with the conditions. The items was brought to vote and passed 7-1 with John Reed voting against.**

The next meeting will include an amendment to flood plain regulations to include new maps. The new maps go in effect Aug. 4.

**The meeting was adjourned with a motion by Kimerer and second by Thach.**