

MINUTES  
OF  
DOUGLAS COUNTY PLANNING COMMISSION

3015 MENKE CIRCLE  
OMAHA, NE 68134

January 12, 2005  
6:00p.m.

Chairperson Hayes opened the meeting by welcoming two new Planning Commission members, Luke Janke and Joe Roberts.

The meeting was called to order by Chairperson Hayes with roll call vote.

Members Present: Bob Boozer, Bob Bruhn, Ron Bucher, Michael Gerdes, Luke Janke, Dave Lanoha, Joe Roberts and Milo Vacanti.

Members Absent: None

Other County Officials and Staff Present: Barb Frohlich and Kent Holm (Douglas County Environmental Services), Bernie Monbouquette (County Attorney's Office), Don Nielsen (Douglas County Engineer's Office), and Tom Breikreutz (Douglas County Health Department).

Motion by Commissioner Vacanti, seconded by Commissioner Gerdes to approve minutes of November 10<sup>th</sup>, 2004 meeting.

Voting Yes: Bruhn, Gerdes Hayes, Vacanti.

Voting No: None

Abstain: Boozer, Bucher, Janke, Lanoha and Roberts.

Chairperson Hayes announced that she had invited Steve Lee, Director of Emergency Management, and Jim Rodgers, Assistant Director of Emergency Management to explain the issue of warning sirens. Emergency Management is submitting comment letters regarding subdivisions and the installation of sirens.

Steve Lee made the following comments:

1. Three years ago, taxpayers of Douglas County approved a 21 million dollars bond initiative to enhance public safety.
2. One and a half million dollars was used to upgrade the siren system.
3. At the same time it was decided that the County should regulate and own all sirens within the County.
4. The County Board approved the plan so there is uniformity in the system and the maximum number of citizens are provided for efficiently using the dollars available.

1. When a plat is received, it is reviewed to determine if a siren is needed.
2. If a siren is needed, a letter is sent to the developer outlining the procedure to be followed for installation of a siren and we provide help as needed.

Chair Hayes asked if there are every circumstances where the requirement of a siren may be rescinded after an application has been considered by the Planning Commission? Mr. Lee responded that if a mistake were made, the requirement for a siren would be rescinded. He also stated that his Department's responsibility is to make recommendations in terms of public safety but if the developer and/or the Planning Commission determined a siren was not necessary, his department would not contest that decision.

Mr. Rodgers and Mr. Lee stated their department encourages developers to work with neighboring developments to cost share on sirens.

Chair Hayes asked if Emergency Management considered the project completed after the siren is physically installed and working. Mr. Lee stated his office was comfortable with The Summit subdivision being approved for final plat because of their working relationship with E&A Consulting.

Commissioner Vacanti asked who is responsible to pay for the sirens? Mr. Lee stated the SID is responsible to pay for the siren. Mr. Rodgers further explained the siren then becomes the property of Douglas County and the County pays for any repairs or replacements of sirens. He further stated that SID's usually want the sirens to be located on their property and his office has been successful in having the sirens located where they will benefit the most people. The current plan was developed to assure that sirens cover all subdivisions and the sirens will be maintained. The State Attorney General's Office has also said that if a governmental entity is aware of a public safety deficit and fails to act on it they would be held responsible.

Chair Hayes thanked Mr. Lee and Mr. Rodgers for their presentation.

**APPLICATION P-1-05**

REQUEST: Approval of preliminary and final plat for one lot subdivision, Hoffman Pond Subdivision, 2.34 acres, (zoning to remain AF-1).

LEGAL: Part of the NW ¼ of the NW ¼ of Section 15, Township 16 N, Range 9 E of the 6<sup>th</sup> P.M.

LOCATION: South of Highway 275 on 312<sup>th</sup> Street

APPLICANT: Dean Hoffman, 11750 North 300<sup>th</sup> Street, Valley, NE 68064

Dean Hoffman, Jr. 11750 N. 300<sup>th</sup> Street, Valley, NE 68064, presented this application representing his parents with the following comments:

1. A two-acre lake was created when the new highway 275 was constructed.
2. There is a person who wants to buy it for a fishing lake.

Commissioner Bucher asked why it had to be subdivided in order to sell it.

Ms. Frohlich explained that according to State Statute, any division of land less than 10 acres must be subdivided and our regulations were changed in May, 2004 so that any division of land 20 acres or less must be approved by the Planning Commission and County Board.

No one from the public spoke for or against the application during the public hearing. Chair Hayes closed the public hearing.

Motion by Commissioner Bucher, seconded by Commissioner Lanoha to recommend approval.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No: None.

Abstain: None.

**APPLICATION                      G-1-05**

REQUEST: Change Future Land Use Map from Agricultural to Conventional Subdivisions.

LEGAL: Part of the NW ¼ of Section 28, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M.

LOCATION: 249<sup>th</sup> and Tucker

APPLICANT: Douglas County Environmental Services

**APPLICATION                      PZ-1-05**

REQUEST: Approval of preliminary and final plat for three lot subdivision, Hansen's Acres, Lot 1-0.50 acres, Lot 2-0.54 acres, and lot 3-1.07 acres, and rezoning to SF-1.

LEGAL: Part of the NW ¼ of Section 28, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M.

LOCATION: 249<sup>th</sup> and Tucker

APPLICANT: Authiers Riverside Farm and Cabins, Inc. (Jerry Authier), 1808  
Skyline Drive, Elkhorn, NE 68022

Ms. Frohlich stated that she is suggesting the change to the Future Land Use Map because the property is adjacent to another subdivision that is zoned residential. The motion to recommend approval should be contingent upon approval of PZ-1-05

The Planning Commission decided to consider the applications together.

Jerry Authier, 1808 Skyline Drive, Elkhorn, Nebraska presented the application with the following comments:

1. The three lots have been leased for years. Dennis Hansen, owner of Lot 3 has wanted to purchase the property so he could own his own house and land.
2. I have resisted for years but finally decided to sell the lots to the current leasees.

Questions, Comments, and Discussion among Commissioners:

Chair Hayes asked Mr. Authier to describe the lots?

Mr. Authier stated the originally the lots were 100' x 100' lots although each of these of course plat out more than that because of some of the restrictions that apply. Ben Laird, one leasee, would like to purchase his lot as well. The other leasee is Rod Polland, and he would also like to purchase his lot and then of course Dennis Hansen, the one who requested the application, be made.

Commissioner Lanoha asked if the lots were located on the river? Mr. Authier stated that the entire property of 45 acres did have river frontage but these lots are located at the entrance to the 45-acre parcel. Subdividing these lots doesn't interfere with the rest of the property.

Commissioner Bucher asked for clarification regarding access of the lots to a public road. Mr. Authier stated that Tucker Street fronts two of the properties, lots 1 and 2. He also stated that Lot 3 abuts Tucker Street with adequate room for a driveway but the actual driveway is from the land that accesses the remainder of the property

Ms. Frohlich stated the lots have access to a road that would not be blocked by any other property.

Commissioner Vacanti asked if the property bordered Shorty's Lakes? Ms. Frohlich stated it did and that it was being re-zoned because of that and also the lot sizes.

Commissioner Lanoha asked Mr. Nielsen if subdividing the lots would increase the County's responsibility for road maintenance? Mr. Nielsen stated it would not.

Ms. Frohlich also noted that the house located on Lot 2 had been destroyed by fire and the owner was interested in rebuilding on the property. The building permit will have to comply with building and floodplain regulations.

No one from the public spoke for or against the application. Chair Hayes closed the public hearing.

Motion by Commissioner Bucher to recommend approval of applications G-1-05 and PZ-1-05, seconded by Commissioner Boozer.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No: None.

Abstain: None.

**APPLICATION C-1-05**

**REQUEST:** Approval of Conditional Use Permit for Sand and Gravel operation, 232.49 acres (three parcels, parcel 1088 0000 01 (owner-G&G Manufacturing), parcel 1087 0000 01(owner-August Graske) and parcel 1086 0000 01 (owner-August Graske).

**LEGAL:** West ½ of NW ¼ of Section 32, Township 15 N, Range 10 E of the 6<sup>th</sup> P.M.

**LOCATION:** SE corner of 264<sup>th</sup> Street and Highway 92 (West Center Road)

**APPLICANT:** Mallard Sand & Gravel Co., P.O. Box 638, Valley, NE 68064

Chair Hayes stated that Mike Stratman, President of Mallard Sand & Gravel had sent a note requesting lay over of the request for a Conditional Use Permit over until the next Planning Board meeting. The noted stated “We have not to date received the lease from the property owners. I will contact you as soon as we have the signed lease. Please call if you have any questions.”

Commissioner Bucher asked if anyone from the public was present to speak on this application. Several members of the audience stated they were willing to wait until the next meeting.

Commissioner Bucher moved to lay it over the application, seconded by Commissioner Vacanti.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No: None.

Abstain: None.

**APPLICATION G-2-05**

**REQUEST:** Change Future Land Use Map from Agricultural to Commercial for proposed Lot 1

**LEGAL:** Part of SE ¼ SW ¼ of Section 30, Township 15 N, Range 10 E of the 6<sup>th</sup> P.M.

**LOCATION:** West of 264<sup>th</sup> Street on West Center Road, north side.

**APPLICANT:** Douglas County Environmental Services

**APPLICATION PZ-2-05**

**REQUEST:** Preliminary and Final Plat, Venice View Acres, Lot 1-1.86 acres and Lot 2-4.48 acres, Lot 1 to be zoned General Commercial and Lot 2 to be zoned AF-1

**LEGAL:** Part of SE ¼ SW ¼ of Section 30, Township 15 N, Range 10 E of the 6<sup>th</sup> P.M.

**LOCATION:** West of 264<sup>th</sup> Street on West Center Road, north side.

**APPLICANT:** Gary Backman, 431 County Road M, Yutan, NE 68073

The Planning Commission decided to consider the applications G-2-05 and PZ-2-05 together.

Gary Backman, 431 County Road M, Yutan, Nebraska, presented the application with the following comments:

1. Wants to place a 40' x 90' or 50' x 100' steel building on the 1.86 acre lot and use it for commercial purposes.
2. Wants to move a 38' x 60' residence to the 4.48 acre lot.

Chair Hayes asked Mr. Backman to explain his commercial operation?

Mr. Backman stated that he buys and sells cars to car dealers. He doesn't do any retail sales unless friends or someone else specifically requests a car. The cars will be stored in the steel building. He also stated that he couldn't guarantee that the cars will always be inside that building but for the last 7 years, he has never had any cars outside and doesn't anticipate that in the future.

Commissioner Bucher asked if there were buildings on the property now? Mr. Backman stated there were no buildings on the property now.

Commissioner Bucher asked if there was commercial property adjacent to the lots? Mr. Backman stated there was not. Ms. Frohlich stated there was other commercial property

in the same general area, the commercial property in Venice, the automobile repair shop on 264<sup>th</sup> Street, and the Quick Shop.

Chair Hayes stated there is an acreage with a house and animals to the east.

Commissioner Lanoha asked if it wouldn't be better to issue a conditional use permit so the use could not revert to something else? Ms. Frohlich stated there aren't any conditional uses for the type of use Mr. Backman is proposing.

Chair Hayes asked Mr. Backman what access he would have? Mr. Backman stated there would be access from Highway 92. There would be two driveways along the side of the property, one for the front lot and one for the rear lot.

Commissioner Lanoha asked if the Nebraska Department of Roads had approved the driveway and subdivision? Ms. Frohlich stated that she had talked to Frank Blankenau, Nebraska Department of Roads, numerous times about this subdivision because Mr. Backman's current location in Saunders County is being purchased by the State for expansion of Highway 92. The State is going to pay for or be reimbursing Mr. Backman to have his house moved to the rear lot. Mr. Blankenau also stated they would approve access from Highway 92 to this property.

No one from the public spoke in favor of or in opposition to the application. Chair Hayes closed the public hearing.

Commissioner Lanoha asked Mr. Backman if he could give the Planning Commission some kind of assurance that the use would not change on the lot zoned for commercial use. Mr. Backman stated he has no intention of doing anything else right now but if someone wants to buy the property in the future and he is ready to retire, he would probably sell it.

Commissioner Lanoha stated he was concerned about the lack of other commercial zoning in the area. Mr. Backman stated there is a beauty shop, repair shop, convenience store and bait shop, and an antique store in the area with 1/4 mile.

Chair Hayes questioned what was going to happen at the intersection of 264<sup>th</sup> Street and Highway 92? Commissioner Lanoha stated another lane was going to be added on the north side of Highway 92 and the convenience store would be gone.

Commissioner Vacanti asked about the beauty shop? Mr. Backman and Ms. Frohlich stated the beauty shop had rebuilt south of Highway 92.

Commissioner Lanoha stated he would prefer to see a conditional use permit for this type of situation.

Commissioner Bucher pointed out that none of the conditional uses were applicable to this use.

Commissioner Lanoha asked if a discretionary conditional use wasn't suggested last year? Commissioner Bucher stated it was and the Planning Commission rejected it.

Commissioner Bucher asked if Highway 92 was being improved to be four lanes

Ed Eichler, owner of Venice Antiques, stated the highway project would be limbo for sometime and that he is located on the east side of 264<sup>th</sup> street and Mr. Backman is located on the west side of 264<sup>th</sup> Street.

Commissioner Gerdes asked if the properties were contiguous? Ms. Frohlich responded that none of the commercially zoned properties in that area are contiguous.

Commissioner Bucher stated he was less concerned about it being adjacent to commercial areas if the highway was going to be four lanes.

Motion by Commissioner Bucher to recommend approval of G-2-05 & PZ-2-05, seconded by Commissioner Boozer.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Janke, Roberts and Vacanti.

Voting No: Hayes and Lanoha.

Abstain: None.

## **APPLICATION**

## **P-2-05**

**REQUEST:** Preliminary and Final Plat, Christianson Hill, Lot 1-16.73 acres (zoning to remain AF-1)

**LEGAL:** Part of the SW ¼ of SE ¼ of Section 7, Township 16 N, Range 11 E of the 6<sup>th</sup> P.M.

**LOCATION:** East of 192<sup>nd</sup> Street on Bennington Road, north side.

**APPLICANT:** Dale Christianson, 19212 Military Road, Bennington, NE 68007

Dale Christianson, 19212 Military Road, Bennington, Nebraska, presented the application with the following comments:

1. The original parcel is 40 acres.
2. The plan is to sell 23 acres and build a house on the remaining 16 acres.

Rick Mangold, 19747 Bennington Road, Bennington, Nebraska, stated he lived across the street from the property and was in favor of the application because the 23 acres would be a tree farm and remain agricultural.

Chair Hayes closed the public hearing.

Motion by Commissioner Bucher to recommend approval, seconded by Commissioner Lanoha.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No: None.

Abstain: None.

**APPLICATION P-3-05**

REQUEST: Approval of Final Plat, The Summit, 210.98 acres, 130 single family lots with community water and sewer, outlots A, B, C, and D.

LEGAL: Part of South ½ of Section 18, Township 16 N, Range 11 E of the 6<sup>th</sup> P.M.

LOCATION: 198<sup>th</sup> and Rainwood Road

APPLICANT: F & J Enterprises (Frank Krejci), 3323 North 107<sup>th</sup> St., Omaha, NE 68134

Jim Lang, 11718 Nicholas Street, Omaha, NE presented the application representing F&J Enterprises with the following comments:

1. Frank Krejci, principle of F&J Enterprises is present as well as Ann Stevens of JEO Consulting who is an expert on the treatment facility and Brad Harris of Layne Western who has a lot of knowledge and is an expert on water systems.
2. The application is for final approval of the Summit subdivision consisting of 210.98 acres with 130 single family lots and a community water system and sewer system.
3. The subdivision is located northeast of 198<sup>th</sup> and Rainwood Road.
4. The lots are approximately one acre in size.
5. The subdivision will have hard paved streets.
6. The water system will be an interior system constructed by the SID to MUD standards and served by a central well system of two wells. The system will be constructed to allow for connection to MUD water when the service is available.
7. The sewer system will be an interior system constructed by the SID to City of Omaha standards.
8. The sewer will discharge by gravity flow and lift station to the south into a treated lagoon system. When City of Omaha sewer is available, the subdivision will be connected to that system.
9. The lagoon system is located 1,000 feet to the south of the subdivision on Frank Krejci's property and approximately 4,000 feet from Fawn Heights.
10. The lagoon system will be maintained by a properly licensed operator.
11. One hundred feet is being dedicated without compensation on the east side of the subdivision for the possible future opening of 192<sup>nd</sup> Street.

12. Two changes have been made to the preliminary plat. Two lots have been added on the north and some lot widths changed from 150 feet to 135 feet.
13. Deceleration lanes on Rainwood Road have been incorporated at both accesses.
14. The comments from the Douglas County Engineer's Office are acceptable to the developer.
15. The warning siren will be installed and that will be incorporated into the subdivision agreement.

Chair Hayes asked if all the comments from the Douglas County Engineer's Office would be complied with? Mr. Lang stated the developer would comply with those comments.

Chair Hayes opened the public hearing.

Richard Mangold, 19747 Bennington Road, Bennington, NE asked if privacy fencing would be constructed around the development to discourage four wheelers and motorcycles from going onto adjoining property?

Mr. Lang stated there are no plans for the developer to construct privacy fencing. Privacy fencing would be the responsibility of individual owners and hopefully four wheelers and motorcycles won't be on adjoining property.

Chair Hayes closed the public hearing.

Motion by Commissioner Lanoha to recommend approval, seconded by Commissioner Vacanti.

Commissioner Bucher stated he voted against the preliminary plat and is going to vote against the final plat because of concerns about lot size, the water and sewer issues, and because it will be difficult for the City of Omaha to incorporate the subdivision in the future.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Janke, Lanoha, Roberts, and Vacanti.

Voting No: Bucher.

Abstain: None.

#### **APPLICATION G-31-05**

**REQUEST:** Change Future Land Use Map from Agricultural to Industrial.

**LEGAL:** Part of NE ¼ of Section 9, Township 16 n, Range 9 E of the 6<sup>th</sup> P.M.

**LOCATION:** Intersection of Highway 36 and Highway 275

**APPLICANT:** Douglas County Environmental Services

**APPLICATION**

**Z-1-05**

REQUEST: Approval of re-zoning from AF-1 to M2, 51.5 acres.

LEGAL: Part of NE ¼ of Section 9, Township 16 N, Range 9 E of the 6<sup>th</sup> P.M.

LOCATION: Intersection of Highway 36 and Highway 275

APPLICANT: Sun Valley Speedway, LLC (Roger Hadan), 12240 North 153<sup>rd</sup> Circle, P.O. Box 17, Bennington, NE 68007

**APPLICATION**

**C-2-05**

REQUEST: Approval of Conditional Use Permit for Stock Car Racing

LEGAL: Part of NE ¼ of Section 9, Township 16 N, Range 9 E of the 6<sup>th</sup> P.M.

LOCATION: Intersection of Highway 36 and Highway 275

APPLICANT: Sun Valley Speedway, LLC (Roger Hadan), 12240 North 153<sup>rd</sup> Circle, P.O. Box 17, Bennington, NE 68007

The Planning Commission decided to consider the applications G-3-05, Z-1-05, and C-2-05 together.

Jerry Slusky, Attorney, 2120 South 72<sup>nd</sup> Street, Omaha, NE, representing the applicant presented the application with the following comments:

1. Believes this is an exciting project for this area.
2. Roger Hadan's family founded Sunset Speedway in 1957. His grandfather and father operated the facility and Roger was a racer at Sunset.
3. Since Sunset closed several years, it has been Roger's dream to bring Sunset Speedway back.
4. The racers in this area are required to travel about 35 miles down to the Greenwood interchange on I-80 towards Lincoln in order to race.
5. There has been a tremendous demand to bring racing back to the metropolitan, Douglas County and Omaha area.
6. The racetrack would generate close to \$100,000 in sales tax and \$35,000-\$50,000 in property taxes.
7. The economic benefits from a facility such as this, a recreational facility, are helpful in the growth of the area. It brings people in the area. It brings shoppers to the area.
8. The crowd that comes to stockcar races is very user friendly
9. Mr. Hadan and his team have worked very hard to develop this plan.
10. Brad Weckerlin is here tonight to address sanitation, water, and drainage issues.

11. Does not believe the re-zoning is spot zoning because it doesn't fit any of the standards outlined by the State of Nebraska and the Supreme Court.
12. Pointed out that the Future Land Use Map in the Comprehensive Plan designates the area between Reichmuth Road and Highway 275 as industrial.

Ms. Frohlich pointed out the area identified as industrial by Mr. Slusky had been changed on the Future Land Use Map to commercial but that a printed map was not available. She had discussed that with someone working on the project.

Commissioner Bucher pointed out that the attachment to the application shows it as commercial.

Mr. Slusky continued his comments:

13. The request is to re-zone the property to Industrial, which allows stockcar racing as a conditional use permit.
14. Believe the speedway will have adequate power, water and sewer. There will be more than adequate septic storage capacity that can be pumped after each event.
15. Stockcar racing normally operates once a week from May through September.
16. The building will be constructed according to floodplain regulations.
17. Mr. Hadan has met with the State Department of Tourism and has been asked to apply for a grant once the zoning has been changed and the conditional use permit has been granted.
18. The State Department of Tourism believes this kind of commercial and entertainment activity can have a very positive impact to tourism in Nebraska. It can bring people from surrounding states to either participate in the racing or watch the racing.
19. There is also the possibility for national events as well as outdoor concerts.
20. The Corvette Club has contacted Mr. Hadan about having some shows at the speedway.
21. Security guards will be on duty at events to assist with directing traffic.
22. Emergency vehicles will be on site for events.
23. There will be a restaurant that could possibly be open year-round and Mr. Hadan has a commercial restaurant manager ready to operate the facility.
24. Access from 312<sup>th</sup> Street. We propose a two lane entrance into the parking area but there is not a problem with a three lane entrance or even having two separate entrances for smooth ingress and egress.
25. Stockcar racing generates noise. This is a Sunday night event that is usually over by 10:00 p.m. There are approximately 15 residents within one mile of the proposed racetrack.
26. Mr. Hadan has visited with some of the neighbors and one gentleman was putting together a petition because of concern about noise impacting his cattle.
27. Mr. Hadan is proposing to surround the track with billboards that can have sound deadening foam to reduce noise.
28. There shouldn't be any odor impact; the restaurant will serve hamburgers and hot dogs.
29. Mr. Hadan has worked with a lighting engineer to assure that light will not spill out onto the highway.

30. The grandstand will seat up to 5,000 people and adequate utilities are planned.
31. Letters of support from the Mayors of Valley, Fremont, and Bennington are included in the handout.
32. This will be a tremendous recreational facility that could be like Sunset 40 or 50 years ago and generate a lot of economic activity around it.
33. Nebraska law provides guidance as to the factors necessary to cause spot zoning. In particular the Nebraska Supreme Court addressed the issue in the case of Geiger vs. the City of Omaha and the Court said several factors have to be present for it to be spot zoning. One is that the rezoned parcel is a small parcel of land singled out for special and privilege treatment. This parcel is 55 acres, it sits next to land designated for future commercial use. We don't think it is a small parcel being singled out. Two is that the singling out is not in the public interest but only benefits the landowner. We have talked about the tax benefits, the economic benefits, and the fact that it will be a recreational facility for the area. Feel very strongly that this application for re-zoning does not fit the Nebraska law definition for spot zoning.

Roger Hadan, 12323 Pawnee Road, made the following comments regarding the application:

1. Has been involved in racing for 40 years. Was born at the racetrack because his father didn't want to go home because he needed to collect his paycheck from the race.
2. His grandfather built Sunset in 1957 and sold it in 1968
3. Since Sunset closed in approximately 1998, it has been a loss in the area for racers and race fans.
4. In a survey, found that the largest number of race fans are in the Dodge County area and this track will service the Fremont area.
5. Has been involved in promoting racing for about years and feels has good knowledge about what needs to be done to run an efficient track.
6. Tracks in the area have offered support and help.
7. The track is designed to be exactly the same size and shape with the same banking as Sunset Speedway as well as being very spectator friendly.
8. The tract will be 3/8 mile in length affording slower speed, more competitive racing, and will be safer than a larger track. The retaining wall will be further off the track for the safety of the drivers.
9. A professional safety crew will be on site before, during and after racing.

Commissioner Vacanti complimented Mr. Hadan on the layout and asked about tree plantings?

Mr. Hadan stated trees would be planted as a buffer between the highway and behind the billboards which would also be a noise deadener.

Brad Weckerlin, E&A Consulting Group, commented that the track will comply with all Douglas County standards for health issues. He also commented on the concern expressed by the Douglas County Health Department regarding the high water table

suggesting that multiple tanks could be utilized either to a leach field or could be pumped after each event.

Commissioner Roberts stated when appropriate he had some information on the sewage issue.

Mr. Weckerlin continued that the applicant would work with the Nebraska Department of Environmental Quality on the location of the well.

Chair Hayes opened the public hearing. Ms. Frohlich stated she received the following petition today in opposition to the application:

*“We the undersigned object to the application made to rezone property located near Highways 275 & 36 from agricultural to industrial for the purpose of developing the property as a racetrack for cars. We also object to approval of a conditional use permit for stock car racing for the same property. We understand application was made by the Sun Valley Speedway for rezoning from AF1 (agricultural) to M2 (industrial) and for a conditional use permit for stock car racing for approximately 51.5 acres at Section 9 Township 16N Range 9E, Douglas County, NE. We object to any rezoning or racetrack because we believe it will produce negative effects on the property and people within close proximity to this area. This area is a quiet rural community where most of the neighbors know each other. Many of the residents own substantial enough property that they can enjoy being outdoors. Many have resided in the area for more than ten years; some have had family living in this area for generations. We object to the development of a car racetrack for various reasons that cover both private and public nuisance issues.*

*The following list is not inclusive, however neighbors have expressed concern about a decrease in property values due to the presence of a nuisance, an increase in noise that will interfere with the enjoyment of their property, dust levels that will exacerbate health problems and interfere with the enjoyment of their property, a dangerous increase in traffic, congestion and strangers to the area both along the proposed property and up and down the surrounding county roads; of particular concern is traffic traveling from the proposed property to Old Highway 8, which has been used as a unofficial area racetrack for years, for a pre-race practice run or those trespassing to use small wooded areas as “toilet stops” or for other activity, the potential increase of garbage, and inadequate police, fire and public service resources to handle problems that will inevitably result from the development and use of a racetrack. These are concerns expressed by some of the neighbors and every concern stated in not necessarily the concern of each of the undersigned. Each of the undersigned does object to the development of the proposed racetrack”.*

Kathy Hanus, 13808 N. 324<sup>th</sup> Street, made the following comments in opposition to the application:

1. She lives approximately ½ mile north of the proposed area and was one of the residents that apparently was not chosen to get notice of this meeting.
2. There are many neighbors that are very concerned about this application. The first I heard about it was Monday evening and from Monday evening to this evening we were able to obtain the petition signatures.
3. Several people that are out of town or else live outside the community and also do not support the racetrack have not been able to express their opposition. We would hope that the Commission might be able to give us an extension of time to get those letters of additional opposition submitted.
4. Mr. Hadan and his representatives neglected to say why Sunset was closed. It is my understanding that it was closed because the community surrounding it objected to the presence of Sunset Speedway.
5. We as a community in Western Douglas County object to essentially reopening up Sunset Speedway in our area. We basically oppose these applications because we believe it will produce negative effects on the property in the area.
6. Our neighborhood is a quiet rural community, most of the neighbors know each other, and virtually we all have property where we enjoy being outdoors.
7. We own acreages because we enjoy being outdoors.
8. Many of the residents are farmers and they are required as part of their occupation to be outdoors.
9. Many of the people have resided in the neighborhood for more than 10 years and many of the people have had their property in their family for generations.
10. We also have the game preserve along the river in this area and a retreat.
11. We are located in the furthest area of Northwest Douglas County where I have heard on more than one occasion that Douglas County services do not like to come out that far.
12. I cannot tell you the last time I have seen a Douglas County Sheriff in our area. I'm not sure we always need that kind of thing anyway. We do look out for one another.
13. An influx of strangers into the area is going to make things much more difficult and it is going to affect our safety.
14. Basically object to the development of the racetrack for private and public nuisance reasons.
15. Owning property has been established in our Country as a fundamental right. One of the rights that we enjoy is to use that property without interference from other people. As property owners we have the right to enjoy our property, be able to go outside and barbecue, play with our kids, take care of our horses, and whatever without having an unreasonable amount of noise in the area.
16. Doing just a simple search on the internet will give case after case of communities that have gotten fed up with speedways and they have asked them to leave or else they have asked for various remedies having to do with the noise level.
17. In the rural setting we have open fields with nothing to block noise and I can't really believe a billboard is going to block the noise that is going to come from this.
18. Basically it will effect the use of our property. Sunday is the day that I have time to relax and I don't want to have to deal with a lot of strangers coming around my property and then not being able to go outside because of the noise level.

19. It will affect the animals. We have a veterinary office that has recently been built that I believe you recently gave a conditional use permit to in order to build. And as an equine vet hospital he will most likely have sick horses out there. The noise level just might kill those sick horses.
20. Mr. Ackerlund grazes cows and other racetracks that have caused cows to go through fences because of the sudden noise and they start stampeding. It would impact his livelihood.
21. It will change our lifestyle. I won't even be able to put my children to bed at a normal hour on a Sunday evening.
22. The lights at night are another concern. From where I live, I just look out my living room window and will see everything that goes on down there.
23. We are also concerned about dust levels. Not only the inconvenience of cleaning off everything but also the effect it will have on our health and well being. We had some experiences with allergies which are aggravated by dust, not just the normal dust but oily dust and gas vapors that will come from that direction.
24. We are concerned about traffic safety. The increased traffic that is going to travel along those roads. Our roads will be more traveled where we live.
25. The increase in stranger traffic is also a concern. The one thing that has always kept us safe is we know one another because we don't have the regular police patrols.
26. There is also a concern for drinking and driving.
27. Also concern that farmers will have to cleanup their fields before harvesting crops because of littering.
28. We are concerned about the increase in the racing activity on old Highway 8 located to the north. It has been the unofficial racetrack for years and that activity could increase with the location of the racetrack.
29. An increase in trespassing will increase the liability for the landowners because they will have people trespassing on their property.
30. Mr. Ackerlund is also an organic farmer who would have problems with the pollution, the garbage, the oily grimy dust. All of that could affect his organic farming. Contamination from chemical spills could affect not only his organic farming but also perhaps the water table.
31. Decrease in the property values. There is case law where the county has had to decrease property values for people's homes because of nuisance businesses that have been near their homes and they haven't been able to sell their homes.
32. A real concern that several people have mentioned is the increased in likelihood of other nuisance type businesses coming to the area such as the asphalt plant that has tried to move into the area.
33. Basically this isn't the government trying to resolve a pressing issue that has to do with the public need, this is a private company that is trying to exploit the area for its profit at the expense of the residents and for this reason we specifically ask that the board deny the applications for rezoning and conditional use permit. Basically we do not want the racetrack under any condition.

Mike Caldararo, 14101 N. 312<sup>th</sup> Street, made the follow comments:

1. Owns property south of Highway 36 and on 312<sup>th</sup> Street that has been in their family for three generations.
2. Clarified that the entrance to the track would be approximately  $\frac{3}{4}$  mile east of the intersection of 36 and 275. Mr. Slusky stated that was correct.
3. Stated he agreed with Ms. Hanus's comments.
4. Asked how billboards would improve the environment of the community.
5. Asked the Planning Commission to deny the application.

Jim Kruse, 7202 N. 40<sup>th</sup> Street, made the following comments in support of the application:

1. Not all racing fans are a bunch of hillbillies that are going to out on other people's property.
2. We are just looking for a place to go racing and we are part of the community anyway.
3. We are not a bunch of outsiders going to infiltrate their community, we are already a part of it. I live in Douglas County, I have my whole life.

Craig Hoffman, Attorney here on behalf of Carl Martin and his partner, Dr. Bernard Fletcher made the following comments:

1. Dr. Martin and Dr. Fletcher are the owners of the veterinary clinic that was previously referred to.
2. Their main concern is the noise level that would be generated by racing and also concerts.
3. Horse's temperaments are much different than that of humans. They get spooked real easily.
4. There are going to be animals out there during the night and weekends, any time that these races are going to be going on. They are not always going to be supervised, they are going to out there for a various sickness and surgeries they have had. They will be both inside the barn in stalls and they will also be turned out to pasture as part of their rehabilitation.
5. Any of these noises could easily startle these animals, causing them to run through a fence and possible get hit by one of the cars due to the increased traffic or injure itself inside the stall in the building.
6. The aesthetic value of the area would be diminished and I also question whether these races will actually only be occurring on Sunday night. I think they are talking about bringing all kinds of races, maybe they will be on Sunday nights but are the concerts going to be on different nights?
7. Mr. Slusky talked about the good of the public, the City of Omaha or Douglas County, and the increased tax revenues. You also have to look at the detriment to the neighboring landowners in particular. I think this is more significant and obviously most all of the neighboring landowners are against this.
8. I believe this would be spot zoning.

Chair Hayes noted for the two new Planning Commissioners that a conditional use permit was granted for the veterinary clinic.

Richard Reiser, 571 S. 53<sup>rd</sup> Street, Omaha, NE, attorney representing Clarence Werner and Werner Enterprises, made the following comments:

1. Mr. Werner owns approximately 612 acres along the Platte River. The closest proximity point to this proposed racetrack is approximately a mile, perhaps a little less than that.
2. Werner Enterprises leases a piece of that land with a lodge on that property that is used for entertaining customers from out of town when they are in here to talk to us about their business.
3. Mr. Werner and the company are opposed to the racetrack for many of the reasons that have already been touched upon and I'm not going to reiterate those.
4. Asked if the neighbors in Woodcliff that is in Dodge County and about a mile straight across the river from this which is a nice residential area, were notified? Ms. Frohlich stated that notices are not sent to landowners across county lines.
5. Stated this project will dramatically change the entire area.
6. It has been pointed out that part of the Platte River is a game refuge during part of the year and Mr. Werner's property was placed in a conservation easement about two years ago which means the property will never be developed for commercial or residential use. It will remain agricultural and recreational far into the future until the laws change.
7. This is a loud, noisy, bright industrial use that will change the character of the area, both to the game that live in the area and the people that live in the area. It will also impact surrounding landowners that may want to develop because no one is going to buy land around a racetrack.

Shelley Troy, 10575 N. 288<sup>th</sup> Street, made the following comments:

1. She lives a little less than two miles from this racetrack.
2. Agrees with everything that has been said in opposition.
3. I don't think any of us think the race drivers are bad people themselves or that all the people who attend races are bad because I myself have been to Sunset Speedway and I do know how loud it is.
4. Wanted to make sure that you knew that there are a lot of people who are in opposition to this who have not been notified because they have either been out of town or the time is so short.
5. There are other horses in the area besides those at the veterinary clinic. We ride out there, our dream is to live away from the city, to ride horses, raise cattle, raise our kids, sit outside and enjoy the sunset on Sunday evening before we have to hit reality the next day.
6. The City of Valley businesses are closed on Sunday night so they will not benefit from any shopping.
7. Most people go to and from the races and don't stop and shop.

8. Our acreage is our investment for retirement and my house will be worthless located within two miles of a racetrack.

Veronica Hanus, 13808 N. 324<sup>th</sup> Street, made the following comments:

1. Said she is 20 years old and has always lived at the above address.
2. Stated the area does not have a lot of public services and that it can be a long time before fire or rescue services arrive in the area.
3. Concerned that with large groups of people, there will be problems with alcohol and drugs and the impact this will have on her life and her neighbors.
4. Most of the neighbors wanted to live their dream out in the country where they enjoy their quiet life, their hay and their horses, etc.
5. Likes her way of life and wants it to stay the way it is and believes the harm to their way of life is more significant than any economic benefit from the proposal.

Kevin Keeker, 317 N. Stark St. Bennington, NE made the following comments in support of the application:

1. I used to race and I look forward to having a venue that is closer to Omaha and to Bennington.
2. My family and I would like to have a better opportunity to go out and watch.
3. I also grew up on a farm for a number of years and I know how noisy the racetrack is and how noisy farm life can be just as well.
4. Granted it's a different type of noise and there is some adapting but the animals do typically adapt.
5. Steps will be taken to monitor the noise and keep it as reasonable as possible.
6. Found about the meeting at 4:00 p.m. today and chose to be here in favor. Also pointed out that there are others in attendance in favor of the application.

Chair Hayes asked for a show of hands of people in attendance supporting the application. Sixteen people were counted.

Dale Ackerlund, representing Ackerlund Farms, Inc. made the following comments:.

1. Most of their property is right adjacent to the proposed racetrack and is a 4<sup>th</sup> generation farm.
2. He is a certified organic farmer and they have livestock in the area. Is concerned about losing his certification if the racetrack is constructed.
3. Concerned about the game preserve that is close the proposed racetrack.
4. Concerned about the noise level and livestock stampeding because they have a pasture adjacent to the property. Also concerned that the noise may interrupt productivity of the cattle because they are easily spooked and don't gain weight.

Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Roberts commented on the Douglas County Health Department's statement that they would only support the project if the facility was connected to a sanitary sewer. The sewer line from Valley to Fremont is exactly one mile from the proposed facility. It would require a force system lift station and approval of the City of Valley and the City of Fremont to connect.
2. Commissioner Bucher asked Mr. Monbouquette if the County Attorney's office has an opinion on spot zoning? Mr. Monbouquette stated he would like the opportunity to do more reading on spot zoning and give an opinion.
3. Commissioner Bucher stated he hoped the County Attorney's office would be willing to represent to the County Board the issue of spot zoning.
4. Commissioner Bucher also stated he believed it is spot zoning and could not support the application. Also believes the County Health Department concerns are a concern.

The Future Land Use Map was discussed. Originally, the area between Reichmuth Road (old Highway 275) and the new Highway 275 was designated for future industrial use. The Planning Commission recommended changing the future land use to commercial for that area and the County Board approved that resolution.

Don Nielsen, Douglas County Engineer's Office, made the following comments:

1. Dan Kutilek, Douglas County Engineer's Office, discussed the application with the Nebraska Department of Roads. The Nebraska Department of Roads indicated to him that a traffic study should be done and he concurs with that opinion.
2. Also pointed out that 312<sup>th</sup> Street is a gravel road and if the project is approved, it is recommended that frontage along the development be paved.

Chair Hayes asked Mr. Slusky if he had seen the comments from the County Engineer. Ms. Frohlich stated she had sent a copy to Mr. Hadan.

Mr. Slusky reviewed the comments and stated that the accesses would meet county requirements, the applicant would do a traffic study, make improvements as needed on 312<sup>th</sup> Street, and complete site grading as required. He also stated the applicant would be glad to have comments from the Nebraska Department of Roads.

Commissioner Gerdes asked if it would be possible to conduct a noise study? Mr. Slusky stated the applicant would do that study and bring the information back next month. Also stated they would like an opportunity to meet with the neighbors so requested the applications be laid over until the February 9, 2005 meeting.

Motion by Commissioner Vacanti to lay the applications over to February 9, 2005, seconded by Commissioner Gerdes.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Janke, Lanoha, Roberts, Vacanti.

Voting No: Bucher

Abstain. None.

Commissioner Lanoha brought up the possibility of approving conditional use permits for the type of use proposed by Mr. Backman. Ms. Frohlich stated she would put amended language for that on the February agenda.

Mr. Holm presented a draft RFP to update the Comprehensive Plan. Chair Hayes stated she had attended a County Board Committee Meeting and the County Commissioners agreed the Comprehensive Plan needs to be updated.

Motion by Commissioner Roberts to proceed with the RFP, second by Commissioner Lanoha.

Voting Yes: Boozer, Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts, and Vacanti.

Voting No:

Abstain: None

Meeting adjourned at 8:05 p.m.

Minutes approved at February 9, 2005 meeting.