

**CITY OF GERING PLANNING COMMISSION MEETING  
August 20, 2024**

A regular meeting of the City of Gering Planning Commission was held in open session on August 20, 2024, at 6:00 p.m. in the Gering City Hall Council Chambers at 1025 P Street, Gering, NE. Present were Commissioners Taylor, Crews, Keener, Miles, Palm, Hauck and Alvizar. Absent were Commissioners Shimic and Kaufman. Also present were City Engineer Annie Folck, and Secretary Carol Martin. Notice of the meeting was given in advance by publication in the Star-Herald, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public.

**Call to Order and Roll Call:**

Chairman Miles called the meeting to order at 6:00 p.m. and noted that a quorum of the Planning Commission was present and business could be conducted.

**1. Pledge of Allegiance**

**2. Open Meetings Act - Neb. Rev. Stat. Chapter 84, Article 14**

**Chairman Miles stated:** As required by State Law, public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room. Agenda items may be moved up or down on the agenda at the discretion of the Chairperson. Additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and the Planning Commission determines that the matter requires emergency action.

**3. Approval of Minutes of the August 6, 2024, regular Planning Commission meeting**

**Motion by Commissioner Taylor to approve the minutes of the August 6 2024 regular Planning Commission meeting. Second by Commissioner Hauck. There was no discussion. The Clerk called the roll. "AYES": Taylor, Crews, Miles, Hauck and Alvizar. "NAYS": None. Abstaining: Keener and Palm. Absent: Shimic and Kaufman. Motion carried.**

**4. Current Business:**

- A. Consider Resolution PC 8-24-2 granting a Conditional Use Permit Extension for a Racetrack and Casino located at 140777 Highway 71.**

*City of Gering*  
**PLANNING COMMISSION Recommendation and Report**

<b>To:</b>	Planning Commission	<b>Date:</b>	8/20/24
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	AG
<b>Subject:</b>	Recommendation & Report – Resolution Granting an Extension of a Conditional Use Permit, Horse Racetrack and Casino	<b>Property Size:</b>	104.67 Acres
<b>Location:</b>	PT SW ¼ (N of ROW) Section 11 Township 21 Range 55 W of 6 <sup>th</sup> P.M., AKA 140777 Hwy 71	<b>#Lots/Parcels:</b>	1
<b>Owner:</b>	Prairie Thunder Gering, LLC	<b>City Council Public Hearing:</b>	N/A

Three years ago, the City of Gering received an application for a conditional use permit (CUP) for the Scotts Bluff Exposition and Racing, Inc. ("SBER") to construct and operate a 5/8 mile horse racetrack and a casino. This CUP was originally approved on September 21, 2021. The City of Gering Zoning Code Section 2.2.2.H requires a project to have commenced within one year of approval, or the approval is void, unless the applicant requests an extension. A one year extension was requested and granted at the Planning Commission meeting on July 19, 2022. That CUP expired on September 21, 2023, as due to a delay in obtaining a license from the State of Nebraska Racing and Gaming Commission, the applicants had still not begun construction. The City's zoning code only allows for a one-time extension of up to one year; thus, the applicant applied for a new Conditional Use Permit for the same project, which was granted on September 19, 2023. However, the Nebraska Racing and Gaming Commission has still not acted on their application, so construction on the project has not begun. Therefore, the applicant is once again requesting a one-year extension to the CUP that was granted in September of 2023, which would extend the deadline for construction to begin until September. The following is all of the information from the CUP that was granted at that time.

The project site is located at 140777 Highway 71, within the City's Extraterritorial Zoning Jurisdiction. The property is currently zoned Ag and is being actively farmed. The application proposes developing the property into a 5/8 mile horse racetrack, along with a testing and receiving barn, initially two stall barns with capacity for 200 stalls with expansion capability for four additional barns as needed, a paddock viewing area, winner's circle, grandstand, separate horsemen lounge area, and rooftop terrace. There will be over 1,133 parking spaces. While in the initial year after construction there may only be one race day held, over the first four years the plan is to hold five race days a year, increasing to fifteen race days starting in 2031. Races would likely occur during June and July with multiple races per day. For each single race, it is estimated that there would be 500 visitors. Once there are three race days, they estimate 2,000 people, and for concerts and other event days, they estimate upwards of 3,500 people. On race days, operations would begin at 7 am with training time until 10 am. The first post time would be 2 pm.

A casino would be constructed as a second phase of the project. The casino would operate 24 hours a day year-round. The casino would consist of a 50,000 square foot gaming facility complete with 650 electronic games, 20 table games, Draft Day Sports Lounge for sports wagering and simulcasting, show lounge with live entertainment, a hotel, restaurants, and potentially a Convention Center. The applicants have indicated that they are in the process of doing a market study to determine the size of the hotel and whether or not there would be enough demand to include the Convention Center. The proposal also includes three restaurants, a travel center with semi-parking, and an RV Park. Approximately 300 full-time and part-time employees are expected to be hired to staff the facilities that are part of this project.

The Planning Commission is to consider whether or not to approve the use of the property as a horse racetrack and casino, and if there should be any conditions required for approval. Staff would classify this use as Indoor and Outdoor Recreation/Entertainment Facilities, both of which are allowed as conditional uses in the Agricultural zone. They are only allowed as a permitted use in the Heavy Commercial zone, and are allowed as conditional uses in all other zones. The reason for this is that these types of facilities do not easily fit into any zones, so by making them a conditional use, the Planning Commission has the ability to provide an additional level of oversight to ensure that the facility will not become a nuisance to the surrounding properties.

There are several policies in the Comprehensive Plan that are relevant to this application. Policy 2.1.A states, "Support the development of outdoor recreation and experiential tourism." The development of a horse racetrack would be a unique recreational opportunity for the Panhandle. Policy 3.2.B states, "Focus commercial development in areas that have good transportation access and support the development of multiple uses." In general, this development would have good access from Five Rocks Road, Kimball Avenue, and 14<sup>th</sup> Street. However, the site plan

shows the main entrance to the facility accessing the exit from Five Rocks Road to Kimball Avenue (see attached picture). Staff recommends that one of the conditions of approval should be the relocation of this entrance, as well as a traffic study to assess requirements for various roadway improvements as a result of the anticipated traffic impacts. Any identified traffic improvements should be installed at the cost of the applicant.

Policy 3.2.F states, "Enhance Gering's gateways and create a common vision for these areas." Because of its location along two of the main entryways in to Gering, appearance of the facility will be extremely important in determining whether or not this proposal is acceptable. Building materials, design, and landscaping should all be considered, as this will be the first thing that visitors will see as they enter the community from the south. Policy 3.2.H states, "Improve the appearance of the community". There are some areas of the property that have old irrigation structures and steep slopes that have not been well maintained. These areas should be improved as part of this proposal. See attached site plan and pictures of existing property for more information.

Currently, the properties to the east, south, and west of the proposed facility are undeveloped. There is an existing residential neighborhood to the north of the proposed facility. According to the Comprehensive Plan, this property is located in the Southwest Gering Neighborhood District. While this district is envisioned to be primarily residential in nature, it does state that "mixed-use along arterial/collector streets as well as important intersections may be appropriate... Transitions from the commercial activity node to nearby residential will be an important consideration." Planning Commission should consider carefully how the additional traffic, lighting, noise, runoff, and other effects of the facility will impact the existing neighborhoods in the area.

The Comprehensive Plan does show that the City would eventually grow to and through the area that is proposed for development. Care should be taken to ensure that all necessary utility and transportation improvements for future growth are installed as part of this proposal. If these improvements are not made immediately, a development agreement should be enacted that would ensure that the applicant would be responsible for utility and transportation improvements that are necessary to provide properties beyond theirs equal opportunity to access the City's services.

The property is currently outside of City limits. In order to provide more efficient emergency management services, staff recommends that when utility services are provided to the facility, the property should be annexed. This will also ensure that the City receives property taxes to help offset the costs of providing police and fire protection to the facility.

There are also some staff concerns with regard to security and police protection. Staff recommends that the applicant be required to provide the City with a digital security and surveillance camera system plan that would ensure that the property has adequate surveillance and that the Gering police department is allowed access to all surveillance videos and provided training on operating digital surveillance software.

Another staff concern is whether there is sufficient housing for an influx of 300 full-time and part-time employees. While some of those employees will undoubtedly be hired from local residents, there will be a significant number who will have to be brought in from outside the area. Currently there is not sufficient housing for that large of an influx of people. Staff is recommending that the applicants be required to do a housing study, and based on the results of that study, either build their own housing or contract to have housing built elsewhere in the community to ensure that there is housing for their employees.

In recognition of the cost involved in having a detailed, engineered site plan prepared prior to approval of the CUP, staff is recommending one of the conditions of approval to be that the

applicant will go through the Development Plan Review Process described in Section 2.2.4 of the City's zoning code. This process outlines all of the details that must be included in the development plan and will require the finalized development plan to go before Planning Commission and City Council for final approval before construction of the facility may begin. This allows for the approval of the CUP at this meeting, while also allowing for additional oversight of the development once the facility design is completed.

When the CUP application was approved, it was conditional on the following requirements:

1. A development agreement will be executed whereby SBER agrees to the following:
  - a. SBER will be responsible for all necessary utility improvements to bring water and sewer to the property. In order to provide adequate fire flows, the water line shall connect to the City's system in two locations: Five Rocks Road and 14<sup>th</sup> Street. All water lines installed will be a minimum pipe size of 8" and must include hydrants at spacings required by code. Sewer will be extended to the property from the sewer interceptor located at the intersection of 7<sup>th</sup> Street and Highway 71. The sewer line must be a minimum of 8". The City will be responsible for any oversizing costs above 8".
  - b. SBER shall pay to extend utilities to the southwest and southeast corners of the property so that utilities will be available for extension to adjacent properties in the future. Water and sewer should be kept in the right-of-way wherever possible. Where not possible, easements shall be granted to the City to access and maintain this infrastructure. No dead-end water mains will be allowed.
  - c. SBER will provide landscaping along Highway 71, Five Rocks Road, and Kimball Avenue in accordance with the requirements for the C-1 zone in section 5.5 of the City's zoning code. Additionally, adequate landscape and open space buffering shall be required adjacent to any residentially zoned property.
  - d. Irrigation structures will be removed and slopes will be regraded along Kimball Avenue to reduce erosion and provide for a more easily maintainable landscaping area. Slopes will be stabilized with beneficial vegetation.
  - e. Stormwater retention will be provided in accordance with Ordinance 2040.
  - f. All lighting shall be LED lighting, shielded and directed downward in a manner that minimizes glare, light trespass and skyglow
  - g. Amplified sound shall not create a nuisance and be directed away from nearby residential development
  - h. Building materials and facades shall conform to the renderings that are included as part of the application.
  - i. The property shall be annexed after utilities are extended to the property.
  - j. SBER will conduct a traffic study to assess requirements for various roadway improvements as a result of the anticipated traffic impacts. Any roadway improvements necessary to address identified traffic impacts shall be installed and paid for by SBER.
  - k. The main entryway on the west side of the facility will be located a minimum of 300 feet to the south of the existing drive on Five Rocks Road or 1400 feet to the north of the existing drive on Kimball Avenue.
  - l. SBER will pave 14<sup>th</sup> Street from Highway 71 to the northern boundary of their property. At the time the facility is built, it shall be paved to a minimum of 26 feet wide. If the City deems it necessary in the future to widen the roadway and install a storm sewer along with curb and gutter, SBER will be responsible for the cost of those improvements to the roadway on their side of the street. If additional paving or roadway improvements are recommended on 14<sup>th</sup> Street by the traffic study referenced in Condition 1.j., those improvements shall be made at the expense of SBER.

2. SBER must have Racing and Gaming licenses from the Nebraska Racing and Gaming Commission and meet all conditions of the licenses, in addition to any and all applicable local, state, and federal requirements.
3. The property must be kept well maintained, with proper weed management and landscape maintenance. Manure will be managed appropriately and removed from the site in a timely manner to eliminate smells. All runoff that comes into contact with manure shall be retained on site.
4. All landscape areas shall be irrigated. Plant materials shall be primarily drought tolerant native or well-adapted species.
5. Building plans will be submitted to the Nebraska State Fire Marshal prior to the start of construction. All requirements for fire suppression and life safety code shall be met.
6. SBER will provide traffic control as requested by the City on race days and for other special events.
7. Signage is subject to the City of Gering sign regulations (Section 5.9 of the Zoning Regulations).
8. SBER must conduct a housing study to determine how much additional housing will be needed to accommodate their employees. Based on the results of the housing study, SBER must provide additional housing on site or contact with others to build additional housing somewhere in the community.
9. The issuance of the Conditional Use Permit is subject to review and approval of the Planning Commission and City Council through the Development Plan Review Process outlined in Section 2.2.4 of the Zoning Regulations.

### **Recommendation**

#### **Approve**

Approve Resolution 8-24-2 granting a 12-month extension to the Conditional Use Permit to Scotts Bluff Exposition and Racing, Inc. granted on September 19<sup>th</sup>, 2023 to operate a Horse Racing Track and Casino at 140777 Highway 71 with the following conditions:

#### **Deny**

Deny Resolution 8-24-2 granting a 12-month extension to the Conditional Use Permit granted on September 19<sup>th</sup>, 2023 to Scotts Bluff Exposition and Racing, Inc. to operate a Horse Racing Track and Casino at 140777 Highway 71 for the following reasons:

#### **Table**

Table Resolution 8-24-2 granting a 12-month extension to the Conditional Use Permit granted on September 19<sup>th</sup> of 2023 for Scotts Bluff Exposition and Racing, Inc. to operate a Horse Racing Track and Casino at 140777 Highway 71 for the following reasons:

Engineer Folck said about a year ago they had a public hearing and approved a Conditional Use Permit for a new horse racing track and casino from Scotts Bluff Exposition and Racing. She said by the zoning code if a CUP is awarded and construction on that project has not commenced within one year, it is void unless they ask for and receive a 12-month extension from the Planning Commission. This is the second time that they have done this and originally the first CUP was awarded in 2021 and then an extension was granted on that in 2022. She said there can only be one-time extensions, so staff had to go through the whole process and do another Public Hearing

and award a new CUP in 2023 and this is to the point of getting delayed and they are looking at a 12-month extension. She said the delay is not the fault of the applicant and they are waiting on approval from the Nebraska Racing and Gaming Commission. She said there has been a lot going on with casinos, in general, being relatively a new thing to Nebraska, and been working through a lot of things to meet some requirements to do a market study before they could consider a new proposed track. She said there had been a lengthy delay not through any fault of the applicant. The applicant has now requested a 12-month extension and this will enable them when the Gaming Commission does start receiving applications for a new racing track to be able to demonstrate that they have all of their zoning in place and all their approvals in place to move forward which will strengthen their application considerably.

She wanted to review their original application. The location is on the south end of Gering (she showed on the overhead screens the area where this project is). She indicated Five Rocks Road and turning into Kimball Avenue and the Heartland Expressway or Highway 71 and that is the proposed site of the track location and it is a little over a 100-acre site. The Race Track would need to come first before they can do the casino and have the horse racing track up and running. In considering a use like this she would like to remind everyone that sometimes some of these can be a little bit contentious but ultimately the role of the City and the Planning Commission is not to determine whether or not they want casinos or casinos in Gering. If it is a legal use in the State of Nebraska, staff has to provide for it somewhere within the community. She said the question is not whether they want a casino, the question is whether the proposed site is appropriate for a casino and horse racing track. One of her concerns for an application like that is the effects on surrounding properties. She said there would be a lot of traffic, particularly on racing days and to address that staff did require some conditions. They will have to do a traffic study, they will need to do an impact study and if there are any needed improvements to the roadways to address the additional traffic, they will have to do that. She said most likely that would be something like an additional turning lane and possibly a stop light, although that most likely wouldn't rise to quite that level. That is why they need to do the engineering and do the study and staff can determine what is appropriate. They will have to provide traffic control for large events similar to what staff does down the road on Five Rocks Road for events at the Amphitheater. She said if there is a large concert or on race days, they may have to have people out there directing traffic.

Additionally, some of the other highlights and she won't get through all of them because they are in the packet, and have gone through them a lot over the last few years. One of the other key requirements and one of the big concerns in the community right now is housing. Staff has spoken with the applicant and one of the staff's concerns is when they talk about bringing in hundreds of jobs, number one - they won't have the people to fill them, and number two - if they bring people in, there may not have anywhere for them to live. They did agree to do a housing study which she believes they are planning on doing along with some of their feasibility studies for the hotel and other things for the casino. They will build some of their housing or they could contract someone else in town to provide additional housing to ensure that staff is not setting up things up for failure in regards to the housing situation.

She said that they will retain all of their stormwater on-site and the manure from the horse barn will be managed appropriately. She said one thing she does like about this site is that they will have different types of traffic. There will be traffic from the attendees which will be primarily off of Five Rocks Road and there will be pickups with stock trailers going to the horse barns which is a different type of traffic which they have planned to go on 14<sup>th</sup> Street and agreed to do some paving on 14<sup>th</sup> Street to help keep the dust down from that type of traffic. She said those are some of the main highlights and some of the concessions that they have made. It has been a back-and-forth working relationship and she thinks that things are on a good track now and waiting on the Gaming Commission to see what they will do. She said ultimately, the staff's recommendation a year ago was to approve it based on all the conditions that staff has on there and staff felt that they were

able to address all of the concerns as staff and the Planning Commission made that approval. Since then, nothing has changed so the staff's recommendation is again to grant the extension, and hopefully one way or another there will be an answer from the state within the next six months' time frame.

Commissioner Hauck asked if there were several applicants and if they were at the top of the list and are the requirements were being met. Sharon Haselhoff, Regional Vice-President of Elite Casino Resorts, said the Nebraska Racing and Gaming Commission will have their next meeting on Friday. She said on their agenda there will be an item to talk about updating racing applications. She said that is a huge step for those who do not currently have a racing license in their community. She said as far as the order they do not know that. They believe that the Gering application was the first racing application placed into NRGCC once it was opened up but again, it is up to staff to determine what applications they will review and when they will review them. She also said knowing any previous applicant will have to update their application with the new form that they will request of all the racing applicants in the state that would like to have a race track and based on what they had to do in Ogallala for the race track transfer from Hastings. They anticipate getting some information on Friday of what that looks like and they don't know if they will just review the application and the commission will look at that. They do not know if they will have a form that is approved and then they will have a timeline and they will find out more on Friday.

Commissioner Hauck asked if they know if there are requirements like Interstate 80 that might be a good location because of traffic and if are they looking at possibilities like that. Sharon said the market study was a key component and that has been given to the commission. She said that is on their website and that the market study does show that Gering is a key location that is key for the market study for the state of Nebraska. She said that is a positive for this application.

Commissioner Hauck asked if they needed to talk to a Senator. Sharon said not at this point and the next step is waiting for that form to be official and allowing them the opportunity to fill out the new form and put their best foot forward for the new application. She also said that now that they have gone through that racing application, they will do their best to put the best application forward for the City of Gering.

Commissioner Hauck asked if the City of Gering needs to send someone to that session. Sharon said they would ask for letters of support from businesses because that is a component of their application of what kind of community support they have for the application and that is one thing that they will be looking forward and putting towards their application and letters of support from businesses, so that will be something that will be part of the application.

Commissioner Keener asked what the name be for the Casino and Race Track. Sharon said the last time she was here it was Scotts Bluff and they have not changed it yet, however, that does not mean it isn't up for discussion and hasn't changed since the last time she was here.

Commissioner Hauck said Scotts Bluff is two separate words, or like the City of Scottsbluff and Sharon said it is like the county.

**Motion by Commissioner Palm to approve Resolution PC8-24-2 granting a Conditional Use Permit Extension for a Racetrack and Casino located at 140777 Highway 71. Seconded by Commissioner Keener.**

**Discussion:** Commissioner Hauck wanted to know if they should ask the Mayor what he thinks. City Engineer Folck said typically the Mayor and Council do not weigh in on the Planning Commission.

The Clerk called the roll. "AYES": Taylor, Crews, Keener, Palm, Hauck and Alvizar. "NAYS": Miles. Abstaining: None. Absent: Shimic and Kaufman. Motion carried.

### 5. City Engineer Report

City Engineer Folck said there will be a meeting in September on the third Tuesday for an AG Estate Dwelling that they will be considering and should be pretty straightforward. She said the other thing she would note is that on the agenda they will see that there is an Open Comment period as the next agenda item. They will start having them because this is a new state law that requires any public meeting that if it falls under the Open Meeting Act it has to have an open comment period for the public.

### 6. OPEN COMMENT: Discussion or action by the Planning Commission regarding unscheduled business will not take place. This section is for citizen comment only.

Kay Helberg, 210114 Floral Street, said across from 14<sup>th</sup> is the Meadow, adjacent right across, and wanted to know if they had an idea what would happen with that lot that is directly the view from our homes. She understands that it is owned by the city and would like to know what the plans are for that and if they will be selling that for commercial infrastructures, service industries, and that kind of thing that they will literally face from their street and having the traffic across the road. City Engineer Folck believes it is zoned commercial but asked Kay to give her a call and they can visit more in detail.

### 7. Adjourn

Commissioner Alvizar moved to adjourn. Commissioner Palm seconded the motion. Discussion: None. The Clerk called the roll. "AYES": Taylor, Crews, Keener, Miles, Palm, Hauck and Alvizar. "NAYS": None. Abstaining: None. Absent: Shimic and Kaufman. Motion carried.

The meeting adjourned at 6:19 p.m.

  
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Jody Miles, Chairman

ATTEST:

  
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Carol Martin, Secretary