

**CITY OF GERING PLANNING COMMISSION MEETING
September 17, 2024**

A regular meeting of the City of Gering Planning Commission was held in open session on September 17, 2024, at 6:00 p.m. in the Gering City Hall Council Chambers at 1025 P Street, Gering, NE. Present were Commissioners Crews, Keener, Kaufman, Palm, and Hauck. Absent Taylor, Shimic, Miles, and Alvizar. 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:

Commissioner Kaufman 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

Commissioner Kaufman 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 20, 2024, regular Planning Commission meeting

Motion by Commissioner Palm to approve the minutes of the August 20, 2024 regular Planning Commission meeting. Second by Commissioner Keener. There was no discussion. The Clerk called the roll. "AYES": Crews, Keener, Palm, and Hauck. "NAYS": None. Abstaining: Kaufman. Absent: Taylor, Shimic, Miles and Alvizar. Motion carried.

4. Current Business:

- A. Consider Ag Estate Dwelling Site located at 200359 Robidoux Road, located in the NW¼ of Section 15, Township 21, Range 55W of the 6th P.M., Scotts Bluff County, Nebraska

**CITY OF GERING
PLANNING COMMISSION RECOMMENDATION AND REPORT**

To:	Planning Commission	Date:	9/17/24
From:	Planning & Community Development	Zoning:	AG
Subject:	Recommendation & Report – AEDS	Property Size:	6.05 acres
Location:	200359 Robidoux Rd, NW ¼, S15-T21N-55W of the 6 th P.M.	#Lots/Parcels:	1
Owner:	Cody Kiesel	City Council Public Hearing:	10/14/24

Agenda Item Summary

The City has received an application for an Ag Estate Dwelling Site (AEDS) Subdivision in the AG zone (Agricultural District). The proposed Ag Estate Dwelling is an existing farmstead located at 200359 Robidoux Road. The applicants would like to divide 6.05 acres off from the remainder of the farm. The property is situated in unplatted lands, NW ¼ of S15-T21N-R55 W of the 6th P.M., Scotts Bluff County. The property is outside of Gering City limits, but within the City's extraterritorial zoning jurisdiction. The surrounding property is zoned AG.

According to the City's zoning code, for each AEDS, the owner shall reserve the balance of 80 acres of vacant or agricultural district land. When the 6.05 acres is divided off, there will be only 53.97 acres remaining of the farm which will be held in reserve for agricultural uses only, until or unless the property is rezoned. While this doesn't strictly meet the 80-acre requirement, section 5.203 of the zoning code also states, "The City Planning Commission and the City Council of the City of Gering, Nebraska, may permit the creation of an AEDS out of less than 80 acres of reserved land, in certain situations, in the event that the intent of this subsection is maintained." The stated intent of the AEDS subsection of code is "not to encourage the creation of a large number of agricultural estate dwelling sites (AEDS), but such intent is to allow 'subdivision' or sale, of a portion of a larger tract of land, whereby the smaller parcel created is to be used primarily for dwelling site purposes." The house that is situated on the proposed AEDS was originally constructed in 1964. Because this is an existing farmstead that is being split off from the remainder of the farm, and this parcel is to be used for dwelling purposes, staff recommends that this AEDS does meet the intent of this subsection of code, and thus recommends approval of the AEDS.

Motion and Vote

Approve

Make a POSITIVE RECOMMENDATION for City Council to approve the Ag Estate Dwelling Site located on 200359 Robidoux Road, situated in the Northwest ¼ of Section 15, Township 21 North, Range 55 West of the 6th Prime Meridian, Scotts Bluff County, with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION to City Council to approve the Ag Estate Dwelling Site located on 200359 Robidoux Road, situated in the Northwest ¼ of Section 15, Township 21 North, Range 55 West of the 6th Prime Meridian, Scotts Bluff County, for the following reasons:

Table

Table making a recommendation for City Council to approve the Ag Estate Dwelling Site located on 200359 Robidoux Road, situated in the Northwest ¼ of Section 15, Township 21 North, Range 55 West of the 6th Prime Meridian, Scotts Bluff County, for the following reasons:

City Engineer Folck said the city received an application to split off an Ag Estate Dwelling. This property is located southwest of town and is not within city limits. It is out maybe half a mile or perhaps a mile from the edge of the city. The property meets all the requirements of an Ag Estate Dwelling other than one thing she would note (indicating a note on the plat) about the remainder of the property.

She said by code, in order to split off an Ag Estate Dwelling, it talks about how the intent of that is not to create a large number of Ag Estate Dwellings, but it is to help existing farmsteads that won't change the character of the agricultural zone to be split off. It is not to create a loophole to get around the requirements for a rural subdivision. For that reason and by code, Ag Estate Dwellings require 80 acres to be held in reserve. The whole property is currently 133 acres but because they have already done an Ag Estate Dwelling that had 80 acres held in reserve, that

means there is only an additional 53, almost 54 acres left that will be held in reserve which is less than the 80 that is typically required.

The code does say they can approve Ag Estate Dwellings with less than that if the request of splitting it off still meets the intent of the code. She believes it does because it is an existing farmstead that was built in the 1960s, it does fall within the intent of that code.

She said they did come before the Planning Commission and Council a couple of years ago and staff has reviewed all the notes. She said at that time it did not pass but the concern was less with this particular Ag Estate Dwelling and more with another one that was across the road at the same time that they were splitting off just a building site which was not an existing farmstead. There was some concern about setting a precedence of splitting properties with less than 80 acres and the question became, "why is it ok for this one and not that one."

She said the difference to her is that this is an existing farmstead and it is not adding population to the Ag area. It was also discussed, probably in the next meeting in October, making some changes to the zoning code to help clarify that a little more: what the differences are and when it is appropriate to go less than 80 acres and when it is not. Just reading through the intent of the zone as it is written in the zoning code and the fact that it is an existing farmstead does mean that it meets the intent of the code. Staff is recommending approval of this Ag Estate Dwelling.

Jerry Ostdiek, Attorney in Scottsbluff, is representing Cody Kiesel. He said he would echo a lot of what Ms. Folck said indicating this is an existing farmstead that has been around since the 1960's and it already has the well. Septic, water, and sewer are already there. He believes the concern about populating more than AEDS out there is limited. Although it does not have the 80 acres as indicated, he believes it does meet the intent. It is existing so it won't require a lot of the new issues that would come with having a bunch of new AEDS out there. He stated that the applicant was there as well for any questions and requested that the Planning Commission approve the application.

Commissioner Keener asked what the intent of the property is. Cody Kiesel said he will sell it off. Commissioner Keener wanted to clarify that it would not be subdivided or have additional dwellings. Cody said no and once they sell that they won't be able to sell anything else off that property.

Commissioner Crews asked if the remainder would remain AG production. Cody said yes. Commissioner Crews said currently they own the whole parcel. Cody said yes. He said the person that used to own that sold the house off on the part of southwest corner, and that is why the acres are off and they sold a part of the other corner off and that would be part of this which would make it 80 but the other owner bought that and that is why there is less acres there. Cody said they plan on just selling the yard (that is indicated in the plat)

Motion by Commissioner Palm to approve the Ag Estate Site located at 200359 Robidoux Road, located in the NW¼ of Section 15, Township 21, Range 55W of the 6th P.M., Scotts Bluff County, Nebraska. Commissioner Keener asked City Engineer Folck if there were any conditions recommended. City Engineer Folck said no. Seconded by Commissioner Keener. There was no discussion. The Clerk called the roll. "AYES": Crews, Keener, Kaufman, Palm, and Hauck. "NAYS": None. Abstaining: None. Absent: Taylor, Shimid, Miles and Alvizar. Motion carried.

5. City Engineer Report

City Engineer Folck said there will be a meeting on October 15. They did receive an application for a Conditional Use Permit for more storage units and will also try to have some different

language for the Ag Estate Dwelling zoning code in that meeting. She also mentioned the Casino and as of right now they are putting their application together. The Gaming Commission did approve the new application form but it is much more in-depth from the previous application they had done to move the license and so it is taking them longer to put all the information together. They will not be on the September meeting but are hoping to be on October meeting and hope to have an answer by the end of October.

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

7. Adjourn

Commissioner Crews moved to adjourn. Commissioner Palm seconded the motion. There was no discussion. The Clerk called the roll. "AYES": Crews, Keener, Kaufman, Palm, and Hauck. "NAYS": None. Abstaining: None. Absent: Taylor, Shimic, Miles and Alvizar. Motion carried.

The meeting adjourned at 6:14 p.m.



Jody Miles, Chairman

ATTEST:



Carol Martin, Secretary