

THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL, OCTOBER 24, 2016

A regular meeting of the City Council of Gering, Nebraska was held in open session on October 24, 2016 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Mayor Kaufman and Councilmembers Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Jim Ellison. Absent were Councilmembers Allred and O'Neal. Notice of the meeting was given in advance by publication in the Gering Citizen, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public except as otherwise indicated.

CALL TO ORDER

The Mayor called the meeting to order at 6:00 p.m. The Mayor stated that there was a quorum of the Council and City business could be conducted.

1. Recital of the Pledge of Allegiance and Prayer
2. Roll Call
3. Excuse councilmember absence

Motion by Councilmember Christensen to excuse the absence of Councilmember Smith from the October 10, 2016 Regular City Council meeting. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

OPEN MEETINGS ACT - NEB.REV.STAT. CHAPTER 84, ARTICLE 14

Mayor 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 Mayor. As required by State Law, 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 Council determines that the matter requires emergency action.

CONSENT AGENDA:

1. Approve minutes of the October 10, 2016 Regular City Council meeting
2. Approve Claims and financials
3. File for record Amendment to Purchase and Sale Agreement between the City of Gering and the Gering Hospitality Group LLC
4. File for record TCD Quarterly report
5. File for record addendum to Property Exchange Agreement between the City of Gering and Kelley Bean Co.

Claims:

10-1-16 to 10-14-16

BKD RENTALS LLC \$2,154.20 OCT RENT SUBSIDY PRAIRIE PINES, CITY PAYROLL TRUST \$3,418.58 FSA MEDICAL 125, CLARKE CHRISTIE \$123.00 MPLA/CALCON CONF TRVL EXP, COOLEY TAMMY \$348.44 MEAN WORKSHOP KEARNEY, COUNCIL OF DEVELOPMENT FI \$400.00 ANNUAL MEMBERSHIP DUES, CREDIT MANAGEMENT SRV \$216.33 GARNISHMENT 2, CREDIT MGMT SRV 2 \$329.91 GARNISHMENT 2, ENLOW TRAVIS \$208.00 FTO TRAINING @ NLETC GRND ISLAND, EXPRESS COLLECTIONS INC \$195.74 GARNISHMENT 2, FIRST STATE BANK \$356.98 IBEW UNION DUES, GERING COURIER \$15.00 ADM - ANNUAL SUBSCRIPTION RENW, GFOA \$50.00 GAAFR RENEWAL NEWSLETTER, ICMA ELECTRONIC RETIREMENT \$552.14 ICMA CITY ADMIN, INTERNAL REVENUE SRV \$41,563.95 FEDIFICA TAX, ITRON INC \$3,114.89 METER SOFTWARE HARDWARE, IWORQ \$5,200.00 PERMIT/INSPCTN/CODE ENFORCEMENT, JOHN HANCOCK USA \$13,555.39 JH RETIRE 6%, JOHN WILSON \$278.00 IMSA TRAINING, JUSTIN BRUNZ \$187.00 SUPERVISION SCHOOL @ NLETC, KENT EWING \$11,312.67 TIP PASS THROUGH PYMT, KOVARIK ELLISON MATHIS \$2,888.75 RETAINAGE CITY ATTORNEY, LEAGUE ASSOC/RISK MANAGE \$468,035.88 INSURANCE 16 - 17/WORKMAN COMP, LEAGUE OF NE MUNICIPAL \$20,145.00 MEMBERSHIP DUES 16 - 17, MEAT SHOPPE \$9,719.79 CATERING COSTS, MG TRUST CO LLC \$6,467.78 MG T - POLICE, NE CHILD SUPPORT PYMT \$627.56 CHILD SUPPORT 1, NE DEPT OF REVENUE \$76,700.31 SEPT SALES/USE TAX, NEBRASKA LAW ENFORCEMENT \$200.00 TUITION FOR FTO SCHOOL, PANHANDLE HUMANE SOCIETY \$3,168.50 FINANCIAL SUPPORT, PAYROLL CHECKS \$113,112.48 PAYROLL CHECKS ON 10-14-16, PETERSON GENE \$182.00 SWANA CONF TRAVEL EXP, POSTMASTER \$600.00 MAILING PERMITS, PRESTON SHERRY \$280.68 MPLA/CALCON CONF TRAVEL EXP, SCB COUNTY AMBULANCE SRV \$316.23 AMBULANCE CONTRACT, SCOTTS BLUFF CO CONSOLID \$51,750.00 INTERLOCAL AGREEMENT 16 - 17, SCOTTSBLUFF - GERING UNITED \$71.54 UNITED WAY CTRB, SENIOR CITIZEN CENTER \$525.00 FINANCIAL SUPPORT, STAR HERALD \$150.00 LIB NEWSLETTER SUBSCRIPTION, STERKEL ROD \$450.68 IMSA TRAINING, SUGAR VALLEY FEDERAL CRED \$1,078.37 CREDIT UNION, SWANA NE CORNHUSKER CHPTR \$550.00 MOLO CLASS REG PETERSON, TEAM CHEVROLET \$375.00 WING LEASE VEHICLE, TERRY CARPENTER INC \$650.00 WATER WELL LAND RENT, VERIZON WIRELESS \$344.70 IPAD FEES, WESTERN STATES BANK \$25,354.25 GERING/SCB SINKING FUND, WESTERN STATES BANK - POL. \$320.00 PO UNION DUES, WINCHELL CLEANING SRV \$140.00 CLEANING HALL BTHROMS OFFICE

Motion by Councilmember Morrison to approve the Consent Agenda. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

BIDS:

1. Northeast Detention Pond Stormwater Release Outlet Storm Sewer Bid

City Engineer, Paul Snarr, stated that a bid opening took place and staff recommends awarding the bid to Paul Reed Construction for \$138,465.16.

Motion by Councilmember Smith to award the Northeast Detention Pond Stormwater Outlet Storm Sewer bid to Paul Reed Construction for \$138,465.16. Second by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

CURRENT BUSINESS:

1. Consider approving Keno application requests

- Riverside Discovery Center
- Gering Merchants
- Veterans & Military Emergency Relief Organization (Warrior Run)

Mayor Kaufman thanked Darrell Bentley, Keno Committee Chairman, for the diligent work of the Keno committee.

Motion by Councilmember Morrison to approve the Keno application requests as presented and recommended by the Keno Committee; \$20,000 RDC, \$6500 Gering Merchants and \$5000 for the Warrior Run. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

PUBLIC HEARINGS:

1. Public hearing to consider a Proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection.

Mayor Kaufman opened the public hearing at 6:07 p.m. Paul Snarr presented the Administrative Record.

**CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/24/16
From:	Planning & Community Development	Zoning:	NA
Subject:	Public Hearing – <i>Proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection</i>	Property Size:	NA
Location:	City Jurisdictional Area	#Lots/Parcels:	NA
Owner:	City of Gering	City Council Public Hearing:	7/19/16 No Quorum/ Hearing 8/16/16 with motion to continue/9/20/16 No Quorum/10/18/16

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper.

Public Hearing

Mr. Mayor and City Council Members,

This is a Public hearing to consider a Proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection.

The proposed ordinance would address continuity of service using reasonable diligence to provide uninterrupted service, explain interruptions, suspending service for making repairs and improvements to the system. The ordinance will also address changes in electrical service, required upgrades, and reconnection including any and all electrical services disconnected for a period exceeding 30 days shall be required to be inspected by the State Electrical Inspector and/or the City's Electrical Superintendent. Inspection may require the owner of the property to up-grade the service equipment to ensure compliance with NEC Code prior to authorizing re-energizing electrical service.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Public Hearing Notice was published 8/5/2016 and 9/2/2016 in the paper and notice was sent per State Statute 18-2115.
- National Electrical Code (NEC).
- The City of Gering with Utility Department Coordination, has been performing the 30 day disconnect inspections for several years prior to reenergizing to ensure code compliance, liability, and safety.
- City of Gering Code of Ordinances, Title V: Public Works, Specifically Chapter 50 and Chapter 54.
- This Public Hearing was scheduled with the City Council on 7/19/16 and had to be rescheduled due to not having a quorum with the Planning Commission.
- This Public Hearing was heard by this Planning Commission 8/16/16 and motion to continue was made for the reasons of Utility Office procedure (are landlords are aware of disconnection) and discussion with the City Attorney to see if the City has an obligation to Landlords for legal change to our ordinances and procedures.
- Planning Commission Public Hearing scheduled for 7/19/16 No Quorum – rescheduled 8/16/16 with motion to continue on 9/20/16 in which we did not have a quorum – rescheduled 10/18/16.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- Building Permits Office and Inspection Department Coordination.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider this Proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION for this proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION for this proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing for this proposed Ordinance for electrical service continuity and 30 day service reconnection with mandatory inspection for the following reason(s):

Mayor Kaufman asked if anyone in the Council Chambers wished to speak in favor or opposition of the ordinance. Seeing none the Administrative Record was closed and the public hearing closed at 6:09 p.m.

Motion by Councilmember Smith to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

1a. Consider approval of Ordinance No. 2039 - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA AMENDING TITLE V, PUBLIC WORKS, CHAPTER 54: ELECTRIC, SECTION 54.11: CITY NOT GUARANTOR OF DELIVERY WITH THE ADDITION OF SUBSECTION (C) ADDRESSING ELECTRICAL SERVICE CONTINUITY AND DISCONNECTION AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Councilmember Morrison made a motion to introduce Ordinance No. 2039 - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA AMENDING TITLE V, PUBLIC WORKS, CHAPTER 54: ELECTRIC, SECTION 54.11: CITY NOT GUARANTOR OF DELIVERY WITH THE ADDITION OF SUBSECTION (C)

ADDRESSING ELECTRICAL SERVICE CONTINUITY AND DISCONNECTION AND PROVIDING FOR AN EFFECTIVE DATE HEREOF. Seconded by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

Councilmember Smith moved that the Ordinance be designated as Ordinance No. 2039 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Christensen. There was no discussion. The Clerk called the roll. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried. Whereupon Ordinance No. 2039 was read by title only, Councilmember Gibbs moved that the Ordinance be passed as read, which motion was seconded by Councilmember Holliday. The question is shall Ordinance No. 2039 be passed? There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

2. Public hearing to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and pipe sizing requirements.

Mayor Kaufman opened the public hearing at 6:12 p.m. Paul Snarr presented the Administrative Record.

**CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/24/16
From:	Planning & Community Development	Zoning:	NA
Subject:	Public Hearing - <i>Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and violations</i>	Property Size:	NA
Location:	City Jurisdictional Area	#Lots/Parcels:	NA
Owner:	City of Gering	Planning Commission Public Hearing:	7/19/16 No Quorum/ Hearing 8/16/16 with motion to continue/9/20/16 No Quorum/10/18/16

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper

Public Hearing

Mr. Mayor and City Council Members,

This is a Public hearing to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and pipe sizing requirements.

The purpose of the proposed ordinance would address flood control, regulate and reduce the contribution of pollutants to the City sewer system, establish requirements for sizing storm piping systems and storm drains, protect water quality and maintain

non-erosive hydrologic conditions downstream of construction activity and development, and to enable legal authority to carry out inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with the Ordinance.

The Ordinance would be applicable to all non-residential single site plans involving construction of new structures or renovation of existing structures within Business, Commercial, Manufacturing, and Industrial Districts as well as new residential subdivisions.

The standards of the Ordinance are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies, maintain groundwater recharge, ensure erosion control measures meet BMP's, and to assure that existing City sewers shall not be burdened by additional or enhanced stormwater created by new and renovated buildings, developments, structures, and/or construction.

The Ordinance would amend Article 21: Plat Review and Submittal Requirements, Section 21.203 Subsection (10) (D) Methodology of Handling Storm Water Run-Off – add a sentence to the end of the paragraph as follows: “Refer to Section 23.6 Utility and Drainage Facilities specifically Sections 23.604 DRAINAGE IMPROVEMENTS and Section 23.604(A) STORM DRAINAGE REQUIREMENTS”.

The Ordinance would also add Section 23.604(A) STORM DRAINAGE REQUIREMENTS” and would include design and construction of a storm drainage pond, storm infiltration system, or other system approved by the City Engineer. A storm drainage pond would require design and construction in accordance with the following criteria:

- When required, storm water piping systems including pipe, manholes, and storm drains shall be calculated by the Developers Engineer using the Rational Method and shall require approval of the City Engineer.
- The volume of pond shall equal one (1.0) inches of water multiplied by the entire contributing area that flows to the pond.
- The pond outlet shall be designed to drain the entire pond in not more than seventy-two (72) hours.
- The sides of the pond shall have a maximum slope of three (3) feet horizontal to one (1) foot vertical (3:1), although a 4:1 slope is preferred.
- Pond inlets shall have a properly designed energy dissipater that eliminates erosion. If riprap is utilized as the energy dissipater a concrete alley curb shall be poured around the riprap to facilitate a mowing edge. Pond inlets shall be constructed so that they are accessible for maintenance purposes.
- Pond outlets shall be located the greatest distance possible from the inlet.
- Topsoil shall be minimally compacted over the top surface area, to a minimum depth of six (6) inches.
- The bottom of the pond shall be sloped to a City Standard French Drain Manhole(s). The French Drain Manhole shall be located adjacent to the outlet of the pond or if there is no outlet the French Drain Manhole shall be the greatest distance from the inlet to the pond that is possible.
- In the event a lift station is required, ponds shall have a minimum fifteen (15) foot wide asphalt access road and a minimum asphalt/concrete area of twenty (20) feet by twenty (20) feet at any lift station. The lift station and appurtenances shall be placed to allow clear access to the pond with trucks, mowers, etc.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- City of Gering Subdivision and Zoning Regulations dated March 1984 - Article 21: Plat Review and Submittal Requirements, Section 21.203 Subsection (10) (D) Methodology of Handling Storm Water Run-Off and Section 23.6 Utility and Drainage Facilities specifically 23.604 Drainage Improvements
- Public Hearing Notice was published in the paper meeting ordinances.
- Planning Commission Public Hearing scheduled for 7/19/16 No Quorum – rescheduled 8/16/16 with motion to continue on 9/20/16 in which we did not have a quorum – rescheduled 10/18/16.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- This Public Hearing was scheduled with the City Council on 7/19/16 and had to be rescheduled due to not having a quorum with the Planning Commission.
- This Public Hearing was heard by the Planning Commission 8/16/16 and motion to continue was made with no reasons; however record indicated the Commission had questions regarding calculating volume and cost concerns.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Snarr stated that he added a requirement to ensure we receive as-built drawings from the contractor and/or developer's engineer.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and violations and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and violations with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and violations for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing to consider a Proposed Ordinance to establish storm water mitigation regulations including policy, procedures, and violations for the following reason(s):

Mayor Kaufman asked if anyone in the Council Chambers wished to speak in favor or opposition of the ordinance. Seeing none the Administrative Record was closed and the public hearing closed at 6:18 p.m.

Motion by Councilmember Gibbs to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

2a. Consider approval of Ordinance No. 2040 - AN ORDINANCE OF THE CITY OF GERING TO RECLASSIFY AND AMEND THE ZONING AND SUBDIVISION REGULATIONS ESTABLISHING STORM WATER MITIGATION REGULATIONS, POLICY, AND PROCEDURES AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Councilmember Smith made a motion to introduce Ordinance No. 2040 - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA AMENDING TITLE V, PUBLIC WORKS, CHAPTER 54: ELECTRIC, SECTION 54.11: CITY NOT GUARANTOR OF DELIVERY WITH THE ADDITION OF SUBSECTION (C) ADDRESSING ELECTRICAL SERVICE CONTINUITY AND DISCONNECTION AND PROVIDING FOR AN EFFECTIVE DATE HEREOF. Seconded by Councilmember Christensen.

Discussion: Councilmember Holliday stated if you're an existing business with a gravel or dirt parking lot and you want to improve your business by paving that parking lot are you now going to have to put a stormwater pond in with that as well? Mr. Snarr replied yes, we had one business in particular that has done that in the past with a large gravel parking lot, the water was able to penetrate through the ground. They came in and concreted it; you cannot drive down that street. Mr. Snarr said he talked to them while they were paving it and they did agree to participate in putting in a stormwater system, but it changes calculation of water coming off that parking lot immensely. Councilmember Holliday asked if these are regulations that a City of our size has to implement. Mr. Snarr said it's getting close to that, most cities have these in place. This is not so much for a storm event as a melting event. Councilmember Holliday said he's cautious to implement these when there's a cost associated with it but we also have to be very conscious of how that water will affect surrounding businesses. Councilmember Gibbs said he has read about some new types of permeable pavement. Mr. Snarr said we'd look at that; it's a good way to go but it's costly. They are decorated and the base underneath them takes in the water; it would be permissible under this ordinance. You cannot drain onto someone else's property Mr. Snarr added.

The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

Councilmember Gibbs moved that the Ordinance be designated as Ordinance No. 2040 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Holliday. There was no discussion. The Clerk called the roll. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried. Whereupon Ordinance No. 2040 was read by title only, Councilmember Morrison moved that the Ordinance be passed as read, which motion was seconded by Councilmember Cowan. The question is shall Ordinance No. 2040 be passed? There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

3. Public hearing to consider amending Ordinance No. 1851 which is located in the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional area for turning movements of vehicles including emergency vehicles.

Mayor Kaufman opened the public hearing at 6:26 p.m. Paul Snarr presented the Administrative Record.

**CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/18/16
From:	Planning & Community Development	Zoning:	NA
Subject:	Public Hearing - <i>Proposed Ordinance Repealing Ordinance No. 1851 eliminating cul-de-sacs and an exception</i>	Property Size:	NA
Location:	City Jurisdictional Area	#Lots/Parcels:	NA
Owner:	City of Gering	City Council Public Hearing:	10/24/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper

Public Hearing

Mr. Mayor and City Council Members,

Public hearing to consider amending Ordinance No. 1851 which is located in the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional area for turning movements of vehicles including emergency vehicles.

Rather than amending, I would recommend that Council consider repealing Ordinance No. 1851 as passed by City Council on 7-09-2007 and amending the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties. This will eliminate perpendicular and diagonal parking along the curb thereby allowing additional area for turning movements for vehicles including emergency vehicles. Cul-de-sac's and bulbs are dedicated right-of-way to the public and are intended to ensure all vehicles have proper turning movements limiting backing maneuvers to ensure safety. This will also provide safer backing movements while home owners are backing out of their driveways with additional line of site.

The Gering Police Department have been working with a concern from a property owner that lives in a cul-de-sac/bulb regarding safety backing out of their driveway. While cars/pickups are parked perpendicular and next to their driveway they have to maneuver around the vehicle and this limits their line of site for vehicle movements or pedestrians within the bulb.

Ordinance No. 1851 and Gering Code of Ordinances state:

§ 72.01 PARKING; GENERALLY,

On all other streets, except in the "Congested District" and on cul-de-sacs, vehicles when parked shall stand parallel with and adjacent to the curb in such a manner as to have both right wheels within 12 inches of the curb or curb line and so as to leave at least four feet between the vehicle so parked and any other parked vehicle. (Prior code §10-6-1)

Cul-De-Sacs are public right-of-way and designed and constructed to allow vehicles including, but not limited to, passenger cars, buses, and emergency vehicles the ability to turn around with minimal backing movements, preferably no backing maneuvers and are not meant to be a parking lot. The American Association of State Highway and Transportation Officials

(AASHTO) recommend a minimum outside radii of 30 feet in residential areas and 50 feet in commercial and industrial areas to ensure safety and minimize backing of vehicles. AASHTO also lists the various vehicle types and the radii required for turning movements in order to maintain safety entering a cul-de-sac (limiting backing movements). Example: minimum design turning radius for a conventional school bus requires 38.9 feet with a minimum inside radius of 23.8 feet – the minimum design turning radius for a passenger car requires 24 feet with a minimum inside radius of 14.4 feet.

Cul-De-Sacs within the City in general have a design radius of 50 feet to the property line whereas after construction of the curb and sidewalk, the turning radius is reduced to approximately 37 feet. Safety in cul-de-sacs is the ability to make turning movements and ability to back out of your driveway with a minimal amount of site obstruction.

REPEAL OF ORDINANCE NO. 1851:

Repealing Ordinance No 1851 and amending Ordinance §72.01 PARKING; GENERALLY to state as follows:

§ 72.01 PARKING; GENERALLY,

On all other streets, except in the “Congested District” vehicles when parked shall stand parallel with and adjacent to the curb in such a manner as to have both right wheels within 12 inches of the curb or curb line and so as to leave at least four feet between the vehicle so parked and any other parked vehicle.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission’s approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Ordinance No. 1851, Passed 7-09-07.
- Gering Police Department working with a concern from a property owner Tiffany Wasserburger, 1660 Bonanza Street that lives in a cul-de-sac/bulb regarding safety backing out of their driveway. While cars/pickups are parked perpendicular and next to their driveway they have to maneuver around the vehicle and this limits their line of site for vehicle movements or pedestrians within the bulb. Correspondence and pictures are attached for the property located at 1660 Bonanza Street.
- Gering Code of Ordinances, Chapter 6, Stopping, Standing and Parking, Section 10-6-1: Stopping, Standing and Parking which has reference with parking next to the curb on all streets. (Section 10-6-1 is shown on Page 24 of 24.
- City of Gering, Nebraska Code of Ordinances, specifically § 72.01 PARKING; GENERALLY
- Ordinance No. 200 Chapter 2. Automobiles, Motor Vehicles, Traffic Regulations which lists numerous traffic regulations, defines the “Congested District”, and references with parking next to the curb on all streets.
- Public Hearing Notice was published in the paper meeting ordinances.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- American Association of State Highway and Transportation Officials – AASHTO recommends a minimum outside radii of 30 feet in residential areas and 50 feet in commercial and industrial areas. AASHTO also lists the various vehicle types and the radii required for turning movements in order to maintain safety entering a cul-de-sac (limiting backing movements). Example: minimum design turning radius for a conventional school bus requires 38.9 feet with a minimum inside radius of 23.8 feet – the minimum design turning radius for a passenger car requires 24 feet with a minimum inside radius of 14.4 feet.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public hearing to consider repealing Ordinance No. 1851 as passed by City Council on 7-09-2007 and amending the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional room for turning movements of vehicles including emergency vehicles and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION to consider repealing Ordinance No. 1851 as passed by City Council on 7-09-2007 and amending the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional room for turning movements of vehicles including emergency vehicles with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION to consider repealing Ordinance No. 1851 as passed by City Council on 7-09-2007 and amending the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional room for turning movements of vehicles including emergency vehicles for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing to consider repealing Ordinance No. 1851 as passed by City Council on 7-09-2007 and amending the Gering Code of Ordinances Title VII, Traffic Code, Chapter 72, Parking Regulations, Subsection 72.01 eliminating cul-de-sacs as an exception when parking in front of properties allowing additional room for turning movements of vehicles including emergency vehicles for the following reason(s):

10-6-1: Stopping, Standing and Parking: All motor vehicles left standing upon any of the streets of the City within the "Congested District" shall be parked by the operator thereof at the curb on each side of the street headed in the direction of the traffic. Parking places in said area shall be marked at the curb at about an angle of forty five degrees (45°) or where parallel parking is required, parking places shall be marked on pavement or curb and all persons desiring to park their motor vehicles in said area shall park same between the designated marks, upon the curb and pavement. Where side parking is indicated, vehicles shall be parked with the right front wheels thereof at the curb. No motor vehicle shall be parked therein more than one tier deep or within fifteen feet (15") of the intersections of streets or within fifteen feet (15') of any fire hydrant for any period of time whatsoever, or at any place designated by the sign "No Parking". It shall be unlawful for any person to use designated parking space in the area herein described for sale purposes at any time whatsoever. No automobile truck or commercial motor vehicle with an overall length of more than seventeen feet (17') and less than twenty feet (20') shall be parked or left standing upon any street within the "Congested District", except on N Street where they shall be parked parallel with the curb. No motor vehicle shall be permitted to park or stop in any alley which connects with any street in said "Congested District". **On all other streets, except in the "Congested District", vehicles when parked shall stand parallel with and adjacent to the curb in such a manner as to have both right wheels within twelve inches (12") of the curb or curb line and so as to leave at least four feet (4') between the vehicle so parked and any other parked vehicle. (1934 Code)**

Mayor Kaufman asked if anyone wished to speak in favor of this ordinance. Tiffany Wasserburger, 1660 Bonanza, stated she was the concerned citizen who contacted the City. She said they have had a situation with the angle in their cul de sac where they are unable to directly enter or exit their driveway to their home; it has been an ongoing situation and happens on a daily occurrence. It has become a very stressful and dangerous situation. When visitors come to their home sometimes to access their driveway they have to drive over the curb because of the diagonal parking utilized by their neighbor. Their neighbor blocks the access to their driveway which has made it very difficult. It has also raised safety concerns; they are concerned about a collision with the neighbor's car. When they back out and they are parked diagonally there may be a foot clearance between the two cars. As winter approaches lighting becomes darker and the snow becomes a factor. They are concerned a collision is going to happen; they want to avoid that at all costs. They don't want to incur any liability in the situation because it wasn't created by them. It's a very stressful situation and a lot of people don't understand that. She would ask that Council imagine every time you back out of your driveway there's always a car behind you that you always have to worry you're going to run into. And day, night or afternoon, most of the time, when you come home your driveway is blocked and you have to swerve around someone in order to access your own property. They believe the situation needs to be resolved. It's not tied to people, it's tied to property; regardless of who lives in that location that issue is going to be there. They believe it needs to be resolved so she can have access to her driveway unimpeded just as every other citizen in the city does. She appreciates Council's consideration and asks that they support the proposal by Mr. Snarr.

Mayor Kaufman asked if anyone else wished to speak in favor of the ordinance. Chief Holthus stated as Council heard the Police Department has received a concern from a community member. The question comes to mind: Why doesn't the Police Department handle it as obstructing the driveway? Chief Holthus stated that the way the ordinance is written the two that contain information about this potential violation, there is one that clearly makes this style of parking acceptable and the other one has a five-foot limit, the car cannot be within five foot of someone else's driveway. With the angle of the cul de sacs, the angles of the drive-way, the vehicle in front of the vehicle measured along the curb line is outside of the five-foot range. With the angle of the cul de sac there's a very large portion of the vehicle that is well in the line of traffic for the folks trying to access their driveway. We looked at the matter from a legal stand point and the City Ordinance, we didn't believe, covered us on it. We looked at it from a state statute requirement; we feel there are some state statutes that cover this violation but certainly getting the county attorney's office to prosecute a violation for a parking ordinance is going to be an uphill challenge because they are overwhelmed and don't have the staff to deal with parking issues. We also looked at it from a design standpoint; what does Paul and his experts tell us is typical in a cul de sac. Traffic management standpoint says there's a certain style of parking and that's parallel. So we present a solution to you this evening that makes sense from our standpoint. The state of Nebraska requires that a vehicle parked on a two-way street parks with their right tires against the curb within 12 inches of the curb; they provide that vehicles are not allowed to block driveways and they require that no vehicle remain or obstruct the regular flow of traffic. With our parking in the cul de sacs we are obstructing the traffic.

Councilmember Gibbs asked why this can't be handled by amending the five-foot from the drive-way requirement specifically the rear of the vehicle would have to be five-foot. He said this sounds like a simple solution to the problem rather than throwing the whole thing out. It's going to affect a lot of people in the community because we have one problem where two neighbors can't get along. He said he understands their problem and he empathizes with them but he can't see punishing everybody else to try to solve their problem. There's another solution; this is not

it. Chief Holthus stated his initial reaction would be that we would still have three quarters of a car length into the road way which is designed for vehicle traffic not for vehicle parking but he would defer to Mr. Snarr.

Councilmember Morrison said we have 36 cul de sacs, give or take some, in the city. Probably all those homes have at least two cars and maybe three cars or more. If you start lining them up along the cul de sac, where are they all going to park? Chief Holthus replied that he understands that's a concern. Councilmember Morrison stated if they think they're in their driveway now, wait until you've got all these cars parked around this semi-circle and it's going to get worse because you can get a whole lot more cars parked parallel than you can parked the other way.

Mr. Snarr stated that cul de sacs... you can have various radiuses in your design, we can require whatever is needed. But the way that most of our cul de sacs are designed meets the minimum requirements. However, cul de sacs are not designed to be a parking lot; they're designed for traffic movement. Busses coming in, cars coming in... AASHTO requires a minimum of 30 feet for cars to be able to turn around. When you park parallel we do come close to meeting that. When you calculate the sidewalk, curb and gutter you've got about 30 feet if you've got cars parked parallel with the curb. If you park diagonal you've only got a radius of approximately 20 feet which is 10 foot shy of AASHTO'S minimum requirements for safe movements. This is the first city he's ever seen that allows diagonal or perpendicular parking in cul de sacs. It has always been parallel and some cities don't allow parking whatsoever in cul de sacs. Councilmember Morrison said but we've designed ours and they're here and they weren't done right in the first place or since this came up. Mr. Snarr stated they're done right; as a City you can require a bigger radius but this does meet design standards; standards require either no parking or parallel parking. Councilmember Morrison replied that school busses don't go into the cul de sacs, they wait on the corner - the kids go to the corner. You don't have trucks going into these cul de sacs because there's no reason unless it's a UPS or Fedex truck that goes in there and then they back out. She said she thinks after we discussed this in July of '07 and the Public Safety Committee met and we discussed all these things, throwing this out and doing it all over again is a mistake. You're going to have people double parked in there because they're not going to be able to get their cars in and out or they're not going to have room to park and if they have a visitor it's going to be even worse.

Mr. Snarr replied all he knows is he's just recommending... AASHTO requires a car to have a turn radius of 24 feet. You have pickups in there, they're designed anywhere from 17 to 18 feet long anymore, so you're just not going to have the radius to turn a car without backing movements, let alone for people to have the room to back out of their driveway. Mr. Snarr said for people trying to back out of their drive-way this inhibits their line of sight backing out. Again, different cities, this is Gering, you're the Council, but a lot of cities do not allow parking in cul de sacs and most others he has seen it's all parallel parking according to AASHTO's guidelines.

Councilmember Christensen stated apparently there is no problem for trucks and school buses using cul de sacs. Mr. Snarr replied he doesn't know, in the city he used to live in, they lived in a cul de sac, they did have school busses come down. Councilmember Gibbs stated we don't though. Councilmember Christensen asked what do these people do if you take the parking off of cul de sacs, what are the people who own property there going to do when they have visitors come from out of town for the holidays, where do they park? Mr. Snarr stated in his situation they had to park around the block. It is public right-of-way, streets are dedicated to the public. If the curb is full height they can park in front of the house and you can even block your own drive-way but you cannot block your neighbor's drive-way.

Councilmember Christensen asked Chief Holthus if they've been called to issue tickets in this instance. Chief Holthus replied that they worked with both parties last year and obtained some compliance but this year it's starting back again. We have an issue in that if the ordinance stays it's still not a violation. We can reach out to them and try to gain their cooperation but we won't necessarily have an ordinance for which we can cite them. Councilmember Christensen asked Ms. Wasserburger if the person parking near her drive-way all the time is her neighbor. An inaudible voice came from the audience. Mayor Kaufman stated that we're still in the process of speaking in favor of. Councilmember Christensen asked if it's the neighbor that's creating the problem for Tiffany; he then asked her if she has made contact with this neighbor and asked them to please not park in her driveway. Ms. Wasserburger stated that they actually started parking two cars diagonally in front of her driveway and on a Friday when she got home she went over to talk to them; they were not home. She didn't want to worry the entire weekend that she'd be trapped in her house so she contacted the police. After that happened the situation seemed to get worse she added. She had to contact the police on two other subsequent occasions. She said it ended with her actually being physically blocked in her driveway; they had cars parked in a manner that she couldn't get in or out of her driveway. She said their intent is to have the same access everyone else does. Councilmember Cowan asked if the roles were reversed and Ms. Wasserburger had a four-car family what would she do. Ms. Wasserburger replied that she's curious how Councilmember Cowan knows her neighbor has a four-car family but her response is that she would inconvenience herself before she'd inconvenience her neighbors. She would park in her own driveway; there's plenty of parking to the right of the driveway. She said her neighbor has utilized those spaces when they wanted to but most times their driveway remains clear and her driveway remains blocked.

Mayor Kaufman asked if anyone wished to speak in opposition of the ordinance. Mike Brunner, 1785 21st Street, stated he lives in a cul de sac in part because of the low traffic. One of the downsides of a cul de sac is you don't have as much street area; he thinks the ordinance should stand as it is.

Ashley Lara, 2160 M Street, stated she is not on a cul de sac and is not speaking in approval or opposition. She feels like it's more of a civil dispute where the Council is asked to act as mediator. What if it was based just on radius? She said she likes the five-foot distance from the drive-way to give them space. What if it's based on wheels, radius and perpendicular, distance and angels?

Gary Schaum, 1225 Pawnee Court, stated they would lose all their parking if all this passed just because two neighbors are disputing; there's no sense in taking all our parking away. They've never had a problem on their cul de sac with busses, etc. He's firmly against it.

Lynette Van Anne, 2330 Kramer Place, stated that they have a circle that they could probably only parallel park three cars. With visitors coming during the holidays who wants to walk around the corner to park your car? She is in opposition.

Tom Modena, 1640 Bonanza, stated he has lived in the same house for close to 40 years. They've never had a bus in there, maybe a fire truck a few times. They've never had a problem. He has watched numerous families move in and out of the Satur and Wasserbuger houses. They've never had a problem like this; this is a simple dispute between neighbors. Yes Satur, one time, did park two cars out in the street partially blocking the drive-way but you still had access to the drive-way if you just swerve a little bit. He said he parks his cars parallel with the curb like you're supposed to. He thinks this is completely ridiculous to include the Council in something so petty. There's no reason to have the police department involved in this. He's against it.

Roger Satur, 1650 Bonanza, (neighbor to the Wasserburgers) stated he has tried... they (Wasserburgers) always say they have come to talk to him about the parking issues but they really don't. The only way he can communicate with his neighbor is through the police. He said it's frustrating, he has two kids driving a vehicle, and granted he did have two vehicles out there at one time but they have remedied that problem. There was a time a vehicle blocked their drive-way; he tried to get a hold of "the kid" and it was moved by 10 a.m. That was an issue, yes. He said now what he's doing is he's parking a car up the street and he has his other car right next to his driveway which leaves ample room to back in and out of the drive-way. He said she always told the police that she shouldn't have to turn the wheel to back out of her drive-way but you have to turn the wheel eventually in a cul de sac. In a cul de sac you have weird angles entering and exiting. He's against it but they are doing what they can to be neighborly and work with them but when you try to talk to them they ignore you. He said he's totally against it and has done everything he can to try to remedy this situation; he's parked clear over by his driveway and there's plenty of room to get in and out.

Mayor Kaufman said he doesn't live on a cul de sac but we are risk managers when it comes to policy and procedure pertaining to the City. Most of the time our staff doesn't browse our ordinances and policies and procedures looking for controversial things to change. It's usually the community that brings those things forward and they investigate through that. He noted that Mr. Snarr mentioned that our ordinance is not consistent with the state and other communities our size as far as what our current ordinances read. Mr. Snarr said that is correct and he wanted to clarify that Council is going to make their vote but cities have to adhere to the Manual on Uniform Traffic Control Devices for all signs; we adhere to that manual to a T. That includes signing and striping and anything traffic related. There is also a federal manual called AASHTO - they recommend at the very minimum for a cul de sac, for turning movements, of 30 feet and we're talking a dedicated right-of-way. Councilmember Gibbs asked if they recommend or require; Mr. Snarr said they recommend but we could probably call them - they definitely wouldn't go with 20 foot. Mr. Snarr said what he's trying to say is it is dedicated right-of-way to the travelling public; maybe there aren't busses but cars take more room than that. This leads to if the developer wants to come in and do cul de sacs, is there really a need to dedicate a cul de sac as a right-of-way? Just end the street. Councilmember Morrison asked how a cul de sac gets to be a right-of-way or thoroughfare. Mr. Snarr replied that it's the same, instead of a through road it's a turn around. All of that right-of-way, right up to the curb and gutter, is dedicated right-of-way. It's dedicated to the public; it's for everyone's use but streets are designed to drive through and cul de sacs are designed to have a turning radius to be able to turn. Mr. Snarr said there's only one time he's ever deviated from the AASHTO manual (unrelated to cul de sacs) and that took several months to get their blessing to deviate from the manual.

Mayor Kaufman thanked Paul and asked if there is any liability to the City if the ordinances are not consistent with cities of our size and someone was injured. Is there any liability back to the City because we didn't have appropriate ordinances in place pertaining to that? City Attorney, Jim Ellison, replied that the short answer is yes, there is potential liability to the City because the issue has been brought to the City's attention. Once it's brought to the City's attention you're now put on notice. He said it could still be considered a condition under certain circumstances of an

accident but a lot of times conditions are not conditions, they are created by governments or whatever. There are cases out there that suggest that land owners can be liable if they created the hazard, so there is that potential. Mr. Ellison said he has no way of telling Council if it could be acted on but it could happen, yes.

Councilmember Holliday asked if something happened in a cul de sac and we're liable what happens on a regular road when there's a camper blocking the view. If we're going to open up this can of worms aren't we going to eventually be opening up a huge can of worms with all the campers and trailers parked on the roads? Mr. Ellison replied that there are separate ordinances that address campers and trailers but the difference is that you have a situation here where you've got existing ordinances and they do seem to be somewhat in conflict with state law, particularly as it relates to parking; that's part of the problem.

Ashley Lara addressed Council again and stated that she works for All-State as an insurance agent. She said if anything the civil dispute calls to the attention the issue with the wording because insurance was designed to be governed by the states and within state law and when the state and city do not match it can cause an issue regarding liability. The City should match the state or it can cause the claim process to become more cumbersome.

City Attorney Ellison stated if in fact the recommended standards are not being followed that creates the potential liability to the City as well.

Councilmember Gibbs stated the following points:

- We are not the only one in the country who has ever dealt with this issue. He noted an article called the "*Cul de sac Conundrum*" from a 2006 Washington Post. He said they've dealt with the same issue and came up with no solution.
- As full disclosure, he lives on a cul de sac; Pawnee Court; this would affect him personally.
- He did some research and googled a satellite image showing a half a dozen cul de sacs in Gering and in almost every one of them there's people parking head on.
- He has lived in his house for 41 years; there were seven children living in the cul de sac at the time he moved there and they never had an issue with anything being in danger. To him, there is no more risk backing out from a cul de sac parked perpendicular than there would be from somebody backing out of their drive-way; they still have to turn as they back out of their driveway in a cul de sac.
- The Council addressed this issue in 2007 for this very reason because there was nothing specified in City ordinance prior to that so that's why the Council adopted that ordinance then.
- This problem at 1660 has little to do with perpendicular parking and everything to do with obstructing a drive-way; we already have rules regarding blocking someone else's driveway. Maybe they need some clarification; that might be where we need to address the issue.
- The problem in question is on a bulb out not a cul de sac. If you look at the definition of a cul de sac on the internet and look at an illustration of a cul de sac, they almost always look like a flower with a stem. A bulb out is just a bump and that's where this is. He said he thinks there are two different issues anyway.
- The problem is a dispute between two neighbors that they cannot solve amicably so everyone else living in a cul de sac will be punished; that doesn't make sense. Backing out with a perpendicularly parked vehicle in a cul de sac has better visibility than someone backing out of a drive-way in many cases.
- There are no school bus routes in Gering that travel in cul de sacs or bulb outs; that's a moot point.
- A Fedex truck just came to his cul de sac today and had no problems with his car parked there.
- AASHTO *recommends* the radius, they don't require it.
- Most of the cul de sacs he thinks were built in the 70's in our community. They were never built big enough to be designed to not have any parking in them. No one ever intended for them not to have parking in them and everyone started parking perpendicular. It never became an issue until 2007 and that's when Council addressed it; he sees no reason for a change now.
- This is going to affect peoples' lives drastically if we do this. He thinks it would inversely condemn their property because we're going to affect their property value if they don't have a place to park.

Councilmember Christensen stated he thinks the simple solution is don't park in your neighbor's drive-way and maybe we ought to look at the ordinance and see if we can put some teeth in it and maybe that would give us an opportunity for our police department to enforce the rule. He's not in favor of eliminating parking on cul de sacs.

Councilmember Cowan stated if you go to page 84 (in the packet) you can see that there's five feet before the bumper; there's five foot already, is he still going to get complaints because it sticks out too far? Chief Holthus replied that he doesn't know if he can definitively answer that but he can say that the reduction of the amount of car that's in that direction of travel is reduced by three quarters of a car length. If you have a full Chevy Avalanche parked at a diagonal parking spot that's a lot of vehicle extending into that direction of travel, if it's pulled over parallel that reduces that amount of vehicle in there. In this instance it's a combination of the angle of the drive-ways in relation to the curb radius, the vehicles being parked there, the direction into and out of the cul de sacs and into and out of the garages. Councilmember Gibbs asked if we can expand the definition of drive-way clearance and solve the problem that way; maybe something to the extent of extending the sidelines of the driveway out into the street and not be able to block that which would probably eliminate what we're seeing in these pictures and give a solution to this problem instead of blanketing everyone in the community with a solution that isn't really necessary. Chief Holthus replied that he suspects that is possible. The solution they proposed was based on the three of them going there and coming up with what seemed to make the most sense with the traffic management folks and their experience and the experience of the three of them. There certainly may be other options we'll have to entertain.

Hillary Wasserburger, 1660 Bonanza, stated this is not just a civil dispute or people who can get along. When they first reached out to the City they were asking for clarification, they weren't asking to get the Police or City Council involved. If swerving around a vehicle is not that big of a deal then she would suggest they simply park blocking their driveway and they swerve around it themselves. She appreciates the idea of saying you can't park within five feet of an extension of the driveway; she thinks that would resolve it. They never asked that this be what comes before City Council. They don't want to change it for everyone else; they just want to have free and clear access to their driveway like everybody else does. They are open to supporting other solutions; some of this has been mischaracterized.

Gary Schaum addressed Council again and stated he doesn't think he could park his F250 parallel to the curb on his cul de sac if any other car was parked parallel or the truck would hang out too far.

Councilmember Gibbs stated that traffic in a cul de sac is generally moving at a very low rate of speed; another consideration on the safety angle of it. Mr. Snarr stated he agrees and added that when this was brought to his attention he has to put this hearing together because if he doesn't adhere by the MUTCD (Manual Uniform Traffic Control Devices) manual or the AASHTO manual, whether it's recommended or required, and there's an accident it's his license on the line. This is now the City's action, he's just here to recommend. Mayor Kaufman replied absolutely and he thinks everyone appreciates staff's part in the process.

Mayor Kaufman asked if anyone else wished to speak in favor or opposition of the application. Seeing none the Administrative Record was closed and the public hearing closed at 7:21 p.m.

Motion by Councilmember Morrison to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

3a. Consider approval of Ordinance No. 2041 - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA REPEALING ORDINANCE NO. 1851 AND AMENDING THE GERING CODE OF ORDINANCES TITLE VII, TRAFFIC CODE, CHAPTER 72: PARKING REGULATIONS, SUBSECTION 72.01 AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Mayor Kaufman entertained a motion to introduce Ordinance 2041. With no response the Mayor stated it dies for a lack of a motion.

4. Public Hearing to consider a petition to annex property as requested by the applicant(s), William and Charlotte Rexus.

Mayor Kaufman opened the public hearing at 7:22 p.m. Paul Snarr presented the Administrative Record.

*CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD*

To:	City Council	Date:	10/24/2016
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From:	Planning & Community Development	Zoning:	RRE
Subject:	Public Hearing - Petition to Annex (Currently Zoned RRE – Will Revert to AGG upon Annexation)	Property Size:	± 15 acres
Location:	Fox Hill Subdivision – Owner Address: 200491 County Road P	#Lots/Parcels:	Subdivision as Platted
Owner:	William and Charlotte Rexus	Planning Commission Public Hearing:	10/18/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper and notice was posted on the property

Public Hearing

Mr. Mayor and City Council Members,

This is a Public Hearing to consider a petition to annex property as requested by the applicant(s), William and Charlotte Rexus.

The owner(s) submitted a voluntary petition request to annex letter on September 2, 2016 for Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision, a Replat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, containing approximately 15 acres. The property is located on County Road P, East and adjacent of the City Amphitheater.

The property is currently zoned RRE (Rural Residential Estate District) and per the City Zoning and Subdivision Regulations Section 4.6 Annexation Rule will revert to AGG (General Agricultural Estate District upon Annexation. In the event annexation takes place the owners have requested a public hearing to amend the zoning to RML (Multi Family Residential Low Density District) to allow for single family and two family housing.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Voluntary petition request to annex letter submitted to the City on September 2, 2016 by the owner(s) William and Charlotte Rexus.
- Application for a Change in Zoning in the event annexation is approved by the property owners, William and Charlotte Rexus, September 2, 2016 to amend the zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) to allow for single family and two family housing.
- Owner's main reason to annex is to lower utility bills for electricity. Owners have met with City Staff numerous times on electric costs and City Council. Staff let them know that they would need to be annexed in order to be billed the City rate and also informed them to talk to the County Assessor to see what their tax rates would be in the event they annexed.
- Future development of the subdivision shall require the owners to submit a design performed by a licensed Engineer for the infrastructure of the subdivision including street, city utilities including water main, sanitary sewer main, and storm system and shall be approved by the City. Developer shall also be responsible for all costs associated with the street and utilities meeting City Standards.
- Final Plat of Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision, a Replat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2013-3277 dated June 13, 2013.
- Final Plat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2010-502 dated January 28, 2010.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- City of Gering Subdivision and Zoning Regulations dated March 1984.

- City of Gering Official Zoning Map and Official City Limits Map.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations, Article 15 Amendment, Section 15.2 Submission to City Council, and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed annexation and change in zoning per zoning regulations.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider the owner(s) request and petition to annex their property platted as Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision consisting of approximately 15 acres and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION for the owner(s) petition to annex Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION for the owner(s) petition to annex Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing for the owner(s) petition to annex Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision for the following reason(s):

Mayor Kaufman asked if anyone wished to speak in favor or opposition of this application. Mike Rutter, 1785 21st Street, not in favor or opposition but stated there appears to be a cul de sac in the photo and asked the radius. Councilmember Holliday asked if the property is actually west of the amphitheater. Mr. Snarr replied that it should state west and adjacent not east; that is correct. With no further comments the Mayor closed the Administrative Record and the public hearing closed at 7:26 p.m.

Motion by Councilmember Holliday to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Gibbs. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Alfred and O'Neal. Motion Carried.

4a. Approve or deny a petition to annex property as requested by the applicant(s), William and Charlotte Rexus

Motion by Councilmember Morrison to approve a petition to annex property as requested by the applicant(s) William and Charlotte Rexus. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Alfred and O'Neal. Motion Carried.

4b. Approve Ordinance 2042 – FIRST READING - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA FINDING THAT CERTAIN LANDS, LOTS, TRACTS, STREETS AND HIGHWAYS SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, ARE SUBJECT TO ANNEXATION TO AND INCLUSION WITHIN THE CORPORATE LIMITS OF THE CITY; ANNEXING TO AND INCLUDING WITHIN THE CORPORATE LIMITS OF THE CITY SUCH LANDS, LOTS, TRACTS, STREETS, AND HIGHWAYS; PROVIDING THAT THE INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES AND SUBJECT TO THE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE CITY, AND RECEIVE SUBSTANTIALLY THE BENEFITS OF OTHER INHABITANTS THEREOF; REPEALING CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; AND, PROVIDING FOR RECORDING AND PUBLICATION OF THE ORDINANCE AND FOR ITS EFFECTIVE DATE.

Councilmember Gibbs made a motion to introduce Ordinance No. 2042 as a first reading - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA FINDING THAT CERTAIN LANDS, LOTS, TRACTS, STREETS AND HIGHWAYS SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH

PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, ARE SUBJECT TO ANNEXATION TO AND INCLUSION WITHIN THE CORPORATE LIMITS OF THE CITY; ANNEXING TO AND INCLUDING WITHIN THE CORPORATE LIMITS OF THE CITY SUCH LANDS, LOTS, TRACTS, STREETS, AND HIGHWAYS; PROVIDING THAT THE INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES AND SUBJECT TO THE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE CITY, AND RECEIVE SUBSTANTIALLY THE BENEFITS OF OTHER INHABITANTS THEREOF; REPEALING CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; AND, PROVIDING FOR RECORDING AND PUBLICATION OF THE ORDINANCE AND FOR ITS EFFECTIVE DATE. Seconded by Councilmember Holliday. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

5. Public Hearing to consider an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) as requested by the applicant(s), William and Charlotte Rexus

Mayor Kaufman opened the public hearing at 7:29 p.m. Paul Snarr presented the Administrative Record.

**CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/24/2016
From:	Planning & Community Development	Zoning:	AGG
Subject:	Public Hearing – Amendment to Zoning Per Annexation - Rezone property from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District)	Property Size:	± 15 acres
Location:	Fox Hill Subdivision – Owner Address: 200491 County Road P	#Lots/Parcels:	Subdivision as Platted
Owner:	William and Charlotte Rexus	Planning Commission Public Hearing:	10/18/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper and notice was posted on the property

Public Hearing

Mr. Mayor and City Council Members,

This is a Public Hearing to consider an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) as requested by the applicant(s), William and Charlotte Rexus.

Prior to annexation, the property was zoned RRE (Rural Residential Estate District) and per the City Zoning and Subdivision Regulations Section 4.6 Annexation Rule, when property is annexed it will revert to AGG (General Agricultural Estate District). In the event annexation takes place the owners have requested a public hearing to amend the zoning to RML (Multi Family Residential Low Density District) to allow for single family and two family housing.

The owner(s) submitted an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) on September 2, 2016 for Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision, a Replat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, containing approximately 15 acres. The property is located on County Road P, East and adjacent of the City Amphitheater.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Voluntary petition request to annex letter submitted to the City on September 2, 2016 by the owner(s) William and Charlotte Rexus.
- Application for a Change in Zoning in the event annexation is approved by the property owners, William and Charlotte Rexus, September 2, 2016 to amend the zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) to allow for single family and two family housing.
- Owner's main reason to annex is to lower utility bills for electricity. Owners have met with City Staff numerous times on electric costs and City Council. Staff let them know that they would need to be annexed in order to be billed the City rate and also informed them to talk to the County Assessor to see what their tax rates would be in the event they annexed.
- Future development of the subdivision shall require the owners to submit a design performed by a licensed Engineer for the infrastructure of the subdivision including street, city utilities including water main, sanitary sewer main, and storm system and shall be approved by the City. Developer shall also be responsible for all costs associated with the street and utilities meeting City Standards.
- Final Plat of Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision, a Replat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2013-3277 dated June 13, 2013.
- Final Plat of Blocks 1 and 2, and Outlot A, Rexus Subdivision situated in the Northwest Quarter of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2010-502 dated January 28, 2010.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- City of Gering Subdivision and Zoning Regulations dated March 1984.
- City of Gering Official Zoning Map and Official City Limits Map.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations, Article 15 Amendment, Section 15.2 Submission to City Council, and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed annexation and change in zoning per zoning regulations.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider the owner(s) request to consider an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) platted as Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision consisting of approximately 15 acres and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION to consider the owner(s) application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) for the Final Plat of Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION to consider the owner(s) application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) for the Final Plat of Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing for the owner(s) application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) for the Final Plat of Lots 1 and 2, Block 1, Block 2 and Block 3, and Outlot B, Fox Hill Subdivision for the following reason(s):

The Mayor asked if anyone wished to speak in favor or opposition of the application. It was noted that the location is west not east. With no further comments the Mayor closed the Administrative Record and the public hearing closed at 7:32 p.m.

Motion by Councilmember Morrison to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday,

Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

5a. Approve or deny an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) as requested by the applicant(s), William and Charlotte Rexus

Motion by Councilmember Gibbs to approve an application for a change in zoning from AGG (General Agricultural District) to RML (Multi Family Residential Low Density District) as requested by the applicant(s), William and Charlotte Rexus. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

5b. Approve Ordinance 2043 – AN ORDINANCE OF THE CITY OF GERING TO RECLASSIFY AND CHANGE ZONING FROM GENERAL AGRICULTURAL DISTRICT (AGG – ANNEXATION ORDINANCE NO. 2042) TO MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT (RML) FOR LOTS 1 AND 2, BLOCK 1, BLOCK 2 AND BLOCK 3, AND OUTLOT B, FOX HILL SUBDIVISION, A REPLAT OF BLOCKS 1 AND 2, AND OUTLOT A, REXUS SUBDIVISION SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, RECORDED UNDER INSTRUMENT NO. 2013-3277 CONTAINING APPROXIMATELY 15 ACRES, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Councilmember Smith made a motion to introduce Ordinance No. 2043 - AN ORDINANCE OF THE CITY OF GERING TO RECLASSIFY AND CHANGE ZONING FROM GENERAL AGRICULTURAL DISTRICT (AGG – ANNEXATION ORDINANCE NO. 2042) TO MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT (RML) FOR LOTS 1 AND 2, BLOCK 1, BLOCK 2 AND BLOCK 3, AND OUTLOT B, FOX HILL SUBDIVISION, A REPLAT OF BLOCKS 1 AND 2, AND OUTLOT A, REXUS SUBDIVISION SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, RECORDED UNDER INSTRUMENT NO. 2013-3277 CONTAINING APPROXIMATELY 15 ACRES, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

Councilmember Gibbs moved that the Ordinance be designated as Ordinance No. 2043 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Holliday. The Clerk called the roll. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried. Whereupon Ordinance No. 2043 was read by title only, Councilmember Morrison moved that the Ordinance be passed as read, which motion was seconded by Councilmember Cowan. The question is shall Ordinance No. 2043 be passed? There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

6. Public Hearing to consider a petition to annex property as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation

Mayor Kaufman opened the public hearing at 7:35 p.m. Paul Snarr presented the Administrative Record.

*CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD*

To:	City Council	Date:	10/24/2016
From:	Planning & Community Development	Zoning:	RM
Subject:	Public Hearing - Petition to Annex (Currently Zoned RM – Will Revert to AGG upon Annexation)	Property Size:	± 7 acres
Location:	Westwood Estates and Un-Platted Ground	#Lots/Parcels:	Subdivision as Platted & Unplatted Land
Owner:	Larry and Diane Soto, Westwood Development Corporation	Planning Commission Public Hearing:	10/18/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper and notice was posted on the property

Public Hearing

Mr. Mayor and City Council Members,

This is a Public Hearing to consider a petition to annex property as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation.

The owner(s) submitted a voluntary petition request to annex letter on September 27, 2016 for Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates an addition to the City of Gering, Scotts Bluff County, Nebraska, located in the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2009-1137, dated March 12, 2009 containing approximately 1.7 acres and including the following additional property:

Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres. The property connects to the east right-of-way line of Highway 71. This un-platted property is located in part of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska.

The property is currently zoned RM (Residential Medium Density District) and per the City Zoning and Subdivision Regulations Section 4.6 Annexation Rule will revert to AGG (General Agricultural Estate District upon Annexation. The owners have homes constructed in the above referenced Plat of Westwood Estates and the property was not annexed. The owners are also in the planning of future development of the un-platted land meeting the Land Use Plan in the Comprehensive Plan for additional residential homes. When approved for annexation, the owners have submitted a rezoning application to consider a public hearing to amend the zoning from AGG, due to the annexation to RM (Residential Medium Density District) to allow for single family housing.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Voluntary petition request to annex letter submitted to the City on September 27, 2016 by the Owners, Larry and Diane Soto of Westwood Development Corporation.
- Application for a Change in Zoning in the event annexation is approved by the property Owners, Larry and Diane Soto of Westwood Development Corporation, September 30, 2016 to amend the zoning from AGG (General Agricultural District) to RM ((Residential Medium Density District) to allow for single family housing.
- Future development of the Unplatted land shall require the owners to submit plats performed by a licensed Surveyor and design performed by a licensed Engineer for the infrastructure of the subdivision including street, city utilities including water main, sanitary sewer main, and storm system and shall be approved by the City. Developer shall also be responsible for all costs associated with the street and utilities meeting City Standards.
- Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates an addition to the City of Gering, Scotts Bluff County, Nebraska, located in the Southwest Quarter of the Southwest Quarter of Section 2,

Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2009-1137, dated March 12, 2009.

- Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres. The property connects to the east right-of-way line of Highway 71. This un-platted property is located in part of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- City of Gering Subdivision and Zoning Regulations dated March 1984.
- City of Gering Official Zoning Map and Official City Limits Map.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001) meeting the Land Use Plan for this area.
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations, Article 15 Amendment, Section 15.2 Submission to City Council, and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed annexation and change in zoning per zoning regulations.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider the owner(s) request and petition to annex their property platted as Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total) and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION for the owner(s) petition to annex Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION for the owner(s) petition to annex Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing for the owner(s) petition to annex Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) for the following reason(s):

Mayor Kaufman asked if anyone wished to speak in favor or opposition of the application. Councilmember Gibbs asked if it's city ordinance or state statute that requires annexed land to revert back to AGG and then have to be changed again. Mr. Snarr replied that it's in our ordinances and might be in the state statute as well. Councilmember Gibbs suggested looking into changing that if it's possible; there's no reason for the unnecessary expense for the applicant. With no further comments the Administrative Record was closed and the public hearing closed at 7:40 p.m.

Motion by Councilmember Gibbs to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Holliday. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

6a. Approve or deny a petition to annex property as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation

Motion by Councilmember Gibbs to approve a petition to annex property as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

6b. Approve Ordinance No. 2044 – FIRST READING - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA FINDING THAT CERTAIN LANDS, LOTS, TRACTS, STREETS AND HIGHWAYS SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, ARE SUBJECT TO ANNEXATION TO AND INCLUSION WITHIN THE CORPORATE LIMITS OF THE CITY; ANNEXING TO AND INCLUDING WITHIN THE CORPORATE LIMITS OF THE CITY SUCH LANDS, LOTS, TRACTS, STREETS, AND HIGHWAYS; PROVIDING THAT THE INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES AND SUBJECT TO THE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE CITY, AND RECEIVE SUBSTANTIALLY THE BENEFITS OF OTHER INHABITANTS THEREOF; REPEALING CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; AND, PROVIDING FOR RECORDING AND PUBLICATION OF THE ORDINANCE AND FOR ITS EFFECTIVE DATE.

Councilmember Morrison made a motion to introduce Ordinance No. 2044 as a first reading - AN ORDINANCE OF THE CITY OF GERING, NEBRASKA FINDING THAT CERTAIN LANDS, LOTS, TRACTS, STREETS AND HIGHWAYS SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, ARE SUBJECT TO ANNEXATION TO AND INCLUSION WITHIN THE CORPORATE LIMITS OF THE CITY; ANNEXING TO AND INCLUDING WITHIN THE CORPORATE LIMITS OF THE CITY SUCH LANDS, LOTS, TRACTS, STREETS, AND HIGHWAYS; PROVIDING THAT THE INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES AND SUBJECT TO THE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE CITY, AND RECEIVE SUBSTANTIALLY THE BENEFITS OF OTHER INHABITANTS THEREOF; REPEALING CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; AND, PROVIDING FOR RECORDING AND PUBLICATION OF THE ORDINANCE AND FOR ITS EFFECTIVE DATE. Seconded by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

7. Public Hearing to consider an application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation

Mayor Kaufman opened the public hearing at 7:43 p.m. Paul Snarr presented the Administrative Record.

**CITY OF GERING
CITY COUNCIL ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/24/2016
From:	Planning & Community Development	Zoning:	AGG
Subject:	Public Hearing – Amendment to Zoning Per Annexation - Rezone property from AGG (General Agricultural District) to RM (Residential Medium Density District)	Property Size:	± 7 acres
Location:	Westwood Estates and Un-Platted Ground	#Lots/Parcels:	Subdivision as Platted
Owner:	Larry and Diane Soto, Westwood Development Corporation	Planning Commission Public Hearing:	10/18/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant

4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper and notice was posted on the property

Public Hearing

Mr. Mayor and City Council Members,

This is a Public Hearing to consider an application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation.

The previous public hearing heard by this Commission was the Owners request to annex to meet compliance with development of the platted subdivision of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates. Prior to annexation, the property was zoned RM (Residential Medium Density District) and per the City Zoning and Subdivision Regulations Section 4.6 Annexation Rule, when property is annexed it will revert to AGG (General Agricultural Estate District). The owners have requested a public hearing to amend the zoning once annexed from AGG to RM (Residential Medium Density District) to allow for single family housing and future development of the area.

The owner(s) submitted an application for a change in zoning on September 27, 2016 for Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates an addition to the City of Gering, Scotts Bluff County, Nebraska, located in the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2009-1137, dated March 12, 2009 containing approximately 1.7 acres and including the following additional property:

Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres. The property connects to the east right-of-way line of Highway 71. This un-platted property is located in part of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Voluntary petition request to annex letter submitted to the City on September 27, 2016 by the Owners, Larry and Diane Soto of Westwood Development Corporation.
- Application for a Change in Zoning in the event annexation is approved by the property Owners, Larry and Diane Soto of Westwood Development Corporation, September 30, 2016 to amend the zoning from AGG (General Agricultural District) to RM ((Residential Medium Density District) to allow for single family housing.
- Future development of the Unplatted land shall require the owners to submit plats performed by a licensed Surveyor and design performed by a licensed Engineer for the infrastructure of the subdivision including street, city utilities including water main, sanitary sewer main, and storm system and shall be approved by the City. Developer shall also be responsible for all costs associated with the street and utilities meeting City Standards.
- Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates an addition to the City of Gering, Scotts Bluff County, Nebraska, located in the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska, recorded under Instrument No. 2009-1137, dated March 12, 2009.
- Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres. The property connects to the east right-of-way line of Highway 71. This un-platted property is located in part of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska.
- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council.
- City of Gering Subdivision and Zoning Regulations dated March 1984.
- City of Gering Official Zoning Map and Official City Limits Map.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001) meeting the Land Use Plan for this area.
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations, Article 15 Amendment, Section 15.2

Submission to City Council, and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed annexation and change in zoning per zoning regulations.

- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider the owner(s) request to consider an application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) for the Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) and request your recommendation to approve, deny, or continue as stated in your packets as provided:

Recommendation

Approve

Make a POSITIVE RECOMMENDATION to consider the owners application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) for the Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) with the following conditions:

Deny

Make a NEGATIVE RECOMMENDATION to consider the owners application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) for the Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) for the following reason(s):

Continue

Make a motion to CONTINUE the Public Hearing for the owners application for a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) for the Final Plat of Lots 2, 3, and 4, Block 6, Lot 7, Block 7, and Lot 13, Block 9, Westwood Estates and Un-platted land west of the above described plat of Westwood Estates and North of the Final Plat of Lots 20 through 26, Block 9 and Lots 1 Through 6, Block 11, Westwood Estates, recorded under Instrument No. 2003-09121, dated September 24, 2003, containing approximately 5.3 acres (approximately 7 acres total with plat) for the following reason(s):

Mayor Kaufman asked if anyone wished to speak in favor or opposition of the application. Seeing none the Administrative Record was closed and the public hearing closed at 7:47 p.m.

Motion by Councilmember Morrison to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

A five minute recess was taken to change the video tape.

7a. Approve or deny a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation

Motion by Councilmember Smith to approve a change in zoning from AGG (General Agricultural District) to RM (Residential Medium Density District) as requested by the Owners, Larry and Diane Soto of Westwood Development Corporation. Second by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

7b. Approve Ordinance No. 2045 - AN ORDINANCE OF THE CITY OF GERING TO RECLASSIFY AND CHANGE ZONING FROM GENERAL AGRICULTURAL DISTRICT (AGG - ANNEXATION ORDINANCE NO. 2044) TO RESIDENTIAL MEDIUM DENSITY DISTRICT (RM) FOR LOTS 2, 3, AND 4, BLOCK 6, LOT 7, BLOCK 7, AND LOT 13, BLOCK 9, WESTWOOD ESTATES AN ADDITION TO THE CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF

COUNTY, NEBRASKA, RECORDED UNDER INSTRUMENT NO. 2009-1137, CONTAINING APPROXIMATELY 1.7 ACRES AND INCLUDING UN-PLATTED LAND WEST OF THE ABOVE DESCRIBED PLAT OF WESTWOOD ESTATES AND NORTH OF THE FINAL PLAT OF LOTS 20 THROUGH 26, BLOCK 9 AND LOTS 1 THROUGH 6, BLOCK 11, WESTWOOD ESTATES, RECORDED UNDER INSTRUMENT NO. 2003-09121, DATED SEPTEMBER 24, 2003, CONTAINING APPROXIMATELY 5.3 ACRES. THIS UN-PLATTED PROPERTY IS LOCATED IN PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

Councilmember Gibbs made a motion to introduce Ordinance No. 2045 - AN ORDINANCE OF THE CITY OF GERING TO RECLASSIFY AND CHANGE ZONING FROM GENERAL AGRICULTURAL DISTRICT (AGG - ANNEXATION ORDINANCE NO. 2044) TO RESIDENTIAL MEDIUM DENSITY DISTRICT (RM) FOR LOTS 2, 3, AND 4, BLOCK 6, LOT 7, BLOCK 7, AND LOT 13, BLOCK 9, WESTWOOD ESTATES AN ADDITION TO THE CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, RECORDED UNDER INSTRUMENT NO. 2009-1137, CONTAINING APPROXIMATELY 1.7 ACRES AND INCLUDING UN-PLATTED LAND WEST OF THE ABOVE DESCRIBED PLAT OF WESTWOOD ESTATES AND NORTH OF THE FINAL PLAT OF LOTS 20 THROUGH 26, BLOCK 9 AND LOTS 1 THROUGH 6, BLOCK 11, WESTWOOD ESTATES, RECORDED UNDER INSTRUMENT NO. 2003-09121, DATED SEPTEMBER 24, 2003, CONTAINING APPROXIMATELY 5.3 ACRES. THIS UN-PLATTED PROPERTY IS LOCATED IN PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 21 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF. Seconded by Councilmember Holliday. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

Councilmember Morrison moved that the Ordinance be designated as Ordinance No. 2045 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Cowan. There was no discussion. The Clerk called the roll. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried. Whereupon Ordinance No. 2045 was read by title only, Councilmember Smith moved that the Ordinance be passed as read, which motion was seconded by Councilmember Christensen. The question is shall Ordinance No. 2045 be passed? There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

Councilmember Gibbs asked if there is a dedicated highway access at the north corner. Mr. Snarr said he thinks there is a dedicated access but he's not 100% certain; he thinks there is a permitted one.

8. Public Hearing to consider an application for a Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet West of Lockwood Road and is a part of the North ½ of the Southwest Quarter of Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska (Unplatted Land).

Mayor Kaufman opened the public hearing at 8:00 p.m. It was noted that it should be east of Lockwood Road not west. Mr. Snarr presented the administrative record.

CITY OF GERING

**CITY COUNCIL PUBLIC HEARING
ADMINISTRATIVE RECORD**

To:	City Council	Date:	10/24/2016
From:	Planning & Community Development	Zoning:	BHC
Subject:	Public Hearing – Exception/Conditional Use to Allow a Church In BHC Zoning (Highway Commercial District)	Property Size:	± 1.86 acres
Location:	South side of Highway 92 approximately 700 feet West of Lockwood Road (Unplatted Land)	#Lots/Parcels:	Unplatted Land
Owner:	Silverstone Countryside Care, LLC – Terry Jessen	Planning Commission Public Hearing:	10/18/2016

Procedure

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

Public Notice: This hearing was noticed in the paper and notice was posted on the property

Hearing

Mr. Mayor and City Council Members,

This is a Public Hearing to consider an application for a Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road and is a part of the North ½ of the Southwest Quarter of Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska (Unplatted Land).

The City Zoning and Subdivision Regulations state for BHC Section 7.304 Exceptions, Sub Section (2): Churches and other Religious Institutions provided it is in accordance with Article 13 of the Ordinances.

Accustar Surveying prepared a Final Plat for this area titled Lots 1, 2, and 3, Block 1, Silverstone Addition to the City of Gering, Located in Government Lot 6, Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska. The Plat was stamped and dated April 29, 2010 by the Surveyor; however was not recorded. The plat did not have a dedicated street shown but did have an NDOR Access Easement and recorded under Instrument No. 2003-04774 dated May 22, 2003.

The City Zoning and Subdivision Regulations, Article 19, Section 19 requires a plat for each separate principal use building within the planning jurisdiction of the City and shall be situated on a separate and single subdivided lot of record.

Administrative Record:

Mr. Mayor and City Council Members, you have been provided with the administrative record in your packets and I would ask for this Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Application for an Exception/Conditional Use Permit by the owner Terry Jessen of Silverstone Countryside Care, LLC, September 15, 2016.
- Final Plat (Not Recorded) Lots 1, 2, and 3, Block 1, Silverstone Addition to the City of Gering, Located in Government Lot 6, Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska. The Plat was stamped and dated April 29, 2010 by the Surveyor; however was not recorded.
- NDOR Access Easement for access to the property from Lockwood Road, recorded under Instrument No. 2003-04774 dated May 22, 2003.
- City Council Public Hearing 5-18-2010 approving the Final Plat to go forward to City Council of Lots 1, 2, and 3, Block 1, Silverstone Addition to the City of Gering, Located in Government Lot 6, Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska.
- City Council Public Hearing 5-24-2010 approving the Final Plat by Resolution 5-10-3 of Lots 1, 2, and 3, Block 1, Silverstone Addition to the City of Gering, Located in Government Lot 6, Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska (Plat was not Recorded).

- Planning Commission Public Hearing 10/18/2016 made motion for a positive recommendation to move this Public Hearing to City Council with the following conditions recommended by Staff:
 - Plat to be recorded – inquire about the possibility to change the NDOR access easement to dedicated ROW going into property.
 - Submit stamped building plans i.e. structural, mechanical, plumbing, electrical, etc... - required for an assembly exceeding 1000 square feet.
 - Applicant said they were going to have living quarters – Regulations require living quarters to be in the rear of the building.
- City of Gering Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations, Article 15 Amendment, Section 15.2 Submission to City Council, and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed change in zoning per zoning regulations.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider this application for a Special Exception/Conditional Use Permit to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road and request your recommendation to approve, deny, or continue as follows:

Recommendations

Approve

Make a POSITIVE RECOMMENDATION to approve the Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road with the following conditions:

Staff Recommendations

- Plat to be recorded – should have dedicated ROW going into property.
- Submit stamped building plans i.e. structural, mechanical, plumbing, electrical, etc... - required for an assembly exceeding 1000 square feet.
- Applicant said they were going to have living quarters – Regulations require living quarters to be in the rear of the building.

Deny

Make a NEGATIVE RECOMMENDATION regarding the Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road for the following reason(s):

Staff Recommendations

- Plat to be recorded – should have dedicated ROW going into property.
- Submit stamped building plans i.e. structural, mechanical, plumbing, electrical, etc... - required for an assembly exceeding 1000 square feet.
- Applicant said they were going to have living quarters – Regulations require living quarters to be in the rear of the building.

CONTINUE

Make a motion to CONTINUE the Public Hearing for the owner(s) request to approve the Special Exception/Conditional Use Permit by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road for the following reason(s):

Staff Recommendations

- Plat to be recorded – should have dedicated ROW going into property.
- Submit stamped building plans i.e. structural, mechanical, plumbing, electrical, etc... - required for an assembly exceeding 1000 square feet.
- Applicant said they were going to have living quarters – Regulations require living quarters to be in the rear of the building.

Mayor Kaufman asked if anyone wished to speak in favor or opposition of this application. Councilmember Gibbs asked what the current use of that building is. Mr. Snarr said he thought it was originally built for an Alzheimer's unit but it has been vacant since he's been here. Councilmembers Morrison and Gibbs stated they remember this coming before the Council at one time. Mr. Snarr said we have the minutes on the approvals and we have the plans and the building permits, however a hospital... anything over 3000 square feet has to have approved stamped drawings. Churches and assemblies are anything over 1000 so it's more stringent. Councilmember Morrison asked if the zoning is suitable for residential. Mr. Snarr replied it does allow for that as long as it's in the rear of the building. The church is

allowed as long as it's approved as an exception by the City Council. With no further comments the Mayor closed the administrative record and the public hearing was closed at 8:07 p.m.

Motion by Councilmember Morrison to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

8a. Approve or deny an application for a Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet West of Lockwood Road and is a part of the North ½ of the Southwest Quarter of Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska (Unplatted Land).

Motion by Councilmember Gibbs to approve an application for a Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet West of Lockwood Road and is a part of the North ½ of the Southwest Quarter of Section 6, Township 21 North, Range 54 West of the 6th Principal Meridian, Scotts Bluff County, Nebraska (Unplatted Land). Second by Councilmember Smith.

Discussion: Administrator Danielzuk suggested amending the motion to include the staff recommendations in the motion which are: "... approve the Special Exception/Conditional Use Permit requested by the owner, Terry Jessen to allow for a Church within BHC Zoning located on the South side of Highway 92 approximately 700 feet East of Lockwood Road with the following conditions:

Staff Recommendations

- Plat to be recorded – should have dedicated ROW going into property.
- Submit stamped building plans i.e. structural, mechanical, plumbing, electrical, etc... - required for an assembly exceeding 1000 square feet.
- Applicant said they were going to have living quarters – Regulations require living quarters to be in the rear of the building."

Councilmember Gibbs and Smith agreed to amend their motion and second respectively. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

CLOSED SESSION:

(Council reserves the right to enter into closed session if deemed necessary.)

REPORTS: (Information only) None.

OPEN COMMENT SECTION: Discussion or action by Council regarding unscheduled business will not take place. This section is for citizen comment only. None.

ADJOURN

Motion by Councilmember Christensen to adjourn. Second by Councilmember Gibbs. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred and O'Neal. Motion Carried.

Meeting adjourned at 8:09 p.m.

ATTEST:

Kathleen J. Welfl, City Clerk



Mark A. Kaufman, Mayor