

# **CITY OF GERING**

## **PLANNING COMMISSION MEETING AGENDA**



A SPECIAL MEETING OF THE CITY OF GERING PLANNING COMMISSION WILL BE HELD ON **TUESDAY, SEPTEMBER 9, 2025 AT 6:00 P.M.** IN THE GERING CITY HALL COUNCIL CHAMBERS, 1025 P STREET, GERING, NEBRASKA.

All agenda items are for discussion and action will be taken as deemed appropriate.

### Call to Order and Roll Call

1. Pledge of Allegiance
2. Open Meetings Act - Neb. Rev. Stat. Chapter 84, Article 14, As required by State Law, public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room. Agenda items may be moved up or down on the agenda at the discretion of the Chairperson or Vice-Chairperson. Additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and the Planning Commission determines that the matter requires emergency action.
3. Approval of Minutes of the August 19, 2025 regular Planning Commission meeting
4. Current Business:
  - A. Public Hearing to consider Conditional Use Permit for a Racetrack and Casino to be located in the SW ¼ of Section 11, Township 21 N, Range 55 W of the 6th P.M., Scotts Bluff County, NE, aka 140777 Highway 71.
5. City Engineer report
6. OPEN COMMENT: Discussion or action by the Planning Commission regarding unscheduled business will not take place. This section is for citizen comment only.
7. Adjourn

## **THE OFFICIAL PROCEEDINGS OF THE CITY OF GERING PLANNING COMMISSION REGULAR MEETING, August 19, 2025**

A regular meeting of the City of Gering Planning Commission was held in open session on August 19, 2025, at 6:00 p.m. in the Gering City Hall Council Chambers at 1025 P Street, Gering, NE. Present were Commissioners Alvizar, Crews, Hauck, C. Kaufman, T. Kaufman, Keener, Miles, and Taylor. Absent: None. Also present were City Engineer Annie Folck, Secretary Karen Heins, and recently appointed to the Planning Commission, Stan Waterman (not yet sworn-in). Notice of the meeting was given in advance by publication in the Star-Herald, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public.

### **Call to Order and Roll Call:**

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

#### **1. Pledge of Allegiance**

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

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

#### **3. Approval of Minutes of the July 15, 2025, regular Planning Commission meeting**

**A motion was made by Commissioner Taylor to approve the minutes of the July 15, 2025 regular Planning Commission meeting. Seconded by Commissioner C. Kaufman. There was no discussion. The Secretary called the roll. "AYES": Taylor, Crews, Miles, C. Kaufman, T. Kaufman, Hauck, Alvizar. "NAYS": None. Abstain: Keener. Absent: None. Motion carried.**

#### **4. Current Business:**

##### **A. Oath of Office (Stan Waterman)**

Chairman Miles administered the Oath of Office to Stan Waterman. Commissioner Waterman joined the Planning Commission on the dais.

##### **B. Public Hearing to consider changes to the Zoning Code Regulations**

Chairman Miles opened a public hearing at 6:04 p.m. to consider changes to the Zoning Code Regulations.

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

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|------------------|----------------------------------------|-------------------------------------|-----------|
| <b>To:</b>       | Planning Commission                    | <b>Date:</b>                        | 8/19/2025 |
| <b>From:</b>     | Planning & Community Development       | <b>Zoning:</b>                      |           |
| <b>Subject:</b>  | Proposed Changes to Zoning Regulations | <b>Property Size:</b>               |           |
| <b>Location:</b> | N/A                                    | <b>#Lots/Parcels:</b>               |           |
| <b>Owner:</b>    | N/A                                    | <b>City Council Public Hearing:</b> | 9/8/2025  |

**Public Notice:** This Public Hearing was noticed meeting the requirements of Nebraska State Statutes and City of Gering Zoning Regulations.

**Agenda Item Summary**

Our zoning code is meant to be a living document that can be changed over time as needed to better fit the need of the community. The following are the changes that staff is putting forward for consideration:

- Review uses of the C-1 zone. During consideration of a recent controversial zone change request, it became evident that many residents are not comfortable with all of the uses in the C-1 zone being close to where they live. The C-1 zone, Neighborhood Commercial, is intended by design to be compatible with nearby residential properties. The proposed changes in use are highlighted in red on the attached Land Use Table (Section 3.11). This would narrow down the number of allowable uses in this zone, making it less likely to have adverse effects on surrounding properties.
- Add definitions related to Medical Marijuana (Section 5.12). The state of Nebraska has legalized medical marijuana, so now the City must incorporate it into our zoning code in order to have oversight over where these facilities will be located.
- Determine which zones are appropriate for Medical Marijuana facilities.
- Consider adding Greenhouse as a permitted use in the C-2 zone.
- Consider changing the language in the zoning code regarding protests (Section 2.2.1.D) for zoning codes to be more consistent with state statute. Currently our zoning code allows for protests for any reason, and if over 20% of neighboring property owners protest a zone change, the Council must pass it by  $\frac{3}{4}$  majority. State statute allows for protests as well, but only in cases where the proposed change is inconsistent with the Comprehensive Plan. This would ensure that residents still have the right to protest arbitrary changes, while also ensuring that zone changes are consistent with the Comprehensive Plan and not faced with insurmountable challenges.

Engineer Folck reported this meeting would include discussion of several proposed changes to the Zoning Code Regulations and Comprehensive Plan. She emphasized the need to remember that both of these documents are intended to be living documents—they are meant to evolve over time. As the community grows and changes, it is the City's responsibility to regularly review and update the documents to reflect current needs and priorities. In this case, several recent developments have prompted the need for revisions and clarifications within both the Zoning Code Regulations and the Comprehensive Plan. Additionally, the meeting would address a newly legalized land use in the state of Nebraska, which introduces considerations that were not previously an issue.

Many of the proposed recommendations are in response to a recent zone change application that was brought before the Planning Commission a couple months ago—specifically, the application involving the corner of Country Club Road and Five Rocks Road. That application generated strong opinions on both sides of the issue. Unfortunately, our existing Comprehensive Plan did not offer clear guidance on the right course of action to take.

As a result, she noted that one of the key objectives of this meeting's second agenda item will be to clarify portions of the Comprehensive Plan with the goal to provide clearer direction to both the Planning Commission and City Council should a similar issue arise in the future.

Ms. Folck added that the Zoning Code Regulations and Comprehensive Plan really work hand in hand. Throughout the many conversations with residents, many of the concerns raised were not necessarily about the specific proposal itself, but rather about other uses that could be permitted within the C-1 zone if and when the proposed business was no longer being used as a physical therapy office.

Ms. Folck pointed out this is a very legitimate concern, one that she frequently raises when discussing zone change requests. She explained that once a property is rezoned, any permitted use within that zoning category can be established without going through the zoning process. So, while a current proposal may seem appropriate, future uses could be quite different.

In this instance, much concern was with some of these other uses, not necessarily the medical and office facilities. With that in mind, staff has taken a closer look at the C-1 zoning district to identify whether there are specific uses that could be removed to make it more compatible with adjacent residential areas. By refining the list of allowable uses, this will help ensure any future proposals are more in line with community expectations and concerns—particularly if a zone change in that area is brought forward again in the future.

Ms. Folck referenced that the intent of the C-1 Neighborhood Commercial Zone stated in the Zoning Code: *"The C-1 Neighborhood Commercial District is intended primarily for the provision of retail and personal service facilities to satisfy the convenience-goods needs of the consumer relatively close to his/her place of residence."*

With that intent in mind, staff began reviewing the list of permitted uses within the C-1 zone. They identified the following uses to be removed:

- Commercial Services - limited
- Household Appliance/Repair Shops
- Laundries/Dry Cleaning - self-service or pick-up/drop-off activities only
- Manufacturing/Fabrication/Assembly - limited
- Storage/Warehouse - limited

Ms. Folk continued by stating that, while the uses may not be necessarily intensive or problematic, they do not clearly align with the district's purpose of providing convenience-goods needs of the neighborhood. As a result, staff is proposing to remove these uses from the list of permitted uses in the C-1 zone. She explained that removing these uses would help narrow the focus of the C-1 district, make it more compatible with adjacent residential areas and potentially lessen concerns when C-1 zoning is proposed near existing homes.

She noted that staff also discussed whether to remove "service station/gas station – limited" from the definition. However, after reviewing the areas where the Comprehensive Plan identifies the C-1 zone as appropriate, they found that while some locations may not be appropriate, others could be. Therefore, they chose to list it as a conditional use—so each proposal can be evaluated individually. They did not

want to eliminate the use entirely from the C-1 zone, as they believe there are still areas in the community where it could be appropriate.

As the biggest changes to the C-1 zone mostly involves narrowing down certain uses, Ms. Folck also pointed out that while doing some code clean up, it made sense to address a few more items in the land use table at the same time. In the residential section, currently, upper-story residential is allowed in the downtown area, but residential uses in building basements is prohibited. The idea behind restricting residential on the ground floor is to preserve those spaces for storefronts, which helps to generate foot traffic and support businesses—active business use at street level is desired—not residential. She said, in Gering's downtown, there are not many multi-story buildings; most are one story with existing basements. Allowing residential in those basement spaces could create new opportunities for redevelopment and potentially help generate more cashflow for businesses.

Ms. Folck added that another change to the land use table relates to an issue expected to come up in the near future. It was recently brought to the City's attention that the property where the Gering Garden Center is located was proposed for rezoning to a commercial designation back in 2014. While both the Planning Commission and City Council approved that rezone, it was never formalized through an ordinance. According to legal counsel, this means the rezone is technically invalid. Thus, at some point, the matter will need to come back before the Planning Commission and City Council for reconsideration. That process will involve a full rezone—sending notices to property owners, publishing legal notices, holding public hearings, and so on.

She reported that originally, the proposed zoning in 2014 was to reclassify the property as Central Business District (C-2), consistent with the zoning across the street and in the downtown area. However, since then, that zone has changed; it is now the C-2 zone and no longer allows garden centers as a permitted use. So, staff is proposing to add garden centers as an allowable use in the C-2 zone. Then, if the property owner still wishes to pursue a rezone, this change would ensure the property could be brought into conformance with the zoning regulations, assuming the rezone is approved.

Ms. Folck stated that those were all the proposed changes to the land use table. She then introduced the next set of proposed changes to the Zoning Code, which address the need to incorporate regulations for medical cannabis. In 2024, Nebraska voters approved a constitutional amendment legalizing medical cannabis statewide. As a result, it is now necessary to determine how and where these uses should be allowed within the zoning framework—what areas are appropriate and which are not.

Included in the Planning Commission's meeting agenda packet was Section 5.12, which outlines supplementary regulations drafted by legal counsel. Ms. Folck pointed out that one challenge is that the state has not yet adopted permanent regulations. Temporary regulations are currently in place, and a final version is expected to be released by the end of September. Staff is operating under the assumption that the permanent rules will be fairly similar to the temporary ones, but this will likely be a work in progress. She mentioned that this may be something that will have to be amended if the state were to adopt something that was contrary to something the City of Gering adopts.

That said, Ms. Folck noted they want to be proactive, adding that it is much easier to address these zoning questions now—before any specific proposals come forward—so that they can be prepared and can provide clear guidance. Otherwise, it becomes difficult to evaluate whether or not a use is appropriate, and it puts the City in a tough spot when trying to support—or oppose—a specific location for one of these businesses.

She stated that Section 5.12 outlines four distinct types of medical cannabis uses:

1. Medical Cannabis Cultivator – facilities where the plants are grown.

2. Medical Cannabis Product Manufacturer – where the cannabis is processed into products for consumption.
3. Medical Cannabis Transporter – responsible for transporting products and accessories between licensees.
4. Medical Cannabis Dispensary – retail locations where medical cannabis can be purchased.

Ms. Folck further explained that under the draft regulations prepared by legal counsel, all of these facilities would be prohibited from locating within 1,000 feet of any school, daycare, church, or hospital. This requirement mirrors the current state regulations—the City regulations cannot be less permissive than that. So, this serves as the bare minimum. In addition, legal counsel has recommended a 500-foot buffer from residential properties, measured property line to property line. This added restriction would help ensure that medical cannabis facilities are not located directly adjacent to residential areas or neighborhoods. Again, she repeated that unlike the 1,000-foot buffer, this 500-foot residential setback is not required by the state—it is optional and entirely within the City's discretion as a local jurisdiction. It is something the Planning Commission needs to consider carefully as part of the zoning decisions for these uses.

Ms. Folck emphasized that, in addition to determining appropriate buffer distances, it will also be necessary to decide which zoning districts should allow these types of facilities. She noted that there are multiple ways to approach this decision, but pointed out that such uses can bring a range of negative secondary impacts. She mentioned odor as one significant issue, particularly with manufacturing facilities. She said, as an example, in certain areas in Denver, the smell is highly noticeable and, in her opinion, offensive to the surrounding environment.

In addition to odor concerns, Ms. Folck addressed complications arising from the fact that cannabis remains illegal under federal law. This creates financial challenges, as many banks are reluctant to provide services to cannabis-related businesses. As a result, these operations often rely heavily on cash, which increases the risk associated with having both large quantities of a controlled substance and large amounts of cash on-site. Security, therefore, becomes a major concern for many of these facilities.

Because of these potential impacts, Ms. Folck suggested one possible approach could be to limit the location of such facilities to zoning districts with fewer available lots. According to the zoning map, this would primarily apply to rural residential areas. She acknowledged this would present the most restrictive option.

Ms. Folck also proposed an alternative approach, suggesting that each type of facility be zoned separately based on its function. She explained that, in her view, it would be logical to allow cultivation in agricultural zones, processing in heavy industrial zones, and dispensaries in central business districts.

Regardless of the approach, Ms. Folck recommended that all such uses be permitted only as conditional uses. This, she explained, would allow the Planning Commission to review each application on a case-by-case basis. Through this process, specific conditions could be imposed as needed—such as requirements related to odor control, air filtration, security, or any other concerns that might arise.

Staff is requesting guidance and a recommendation from the Planning Commission regarding which zoning districts should permit these uses. The intent is to incorporate this direction into the land use table. Additionally, staff is seeking input from the Commission on whether a 500-foot buffer from residential properties should be included as part of the regulations.

Ms. Folck added that the final item under consideration involves proposed changes to the protest provisions within the Zoning Code. She explained that, under state statute, if a proposed zone change is not in accordance with the Comprehensive Plan, and the owners of 20% or more of the lots within 300 feet of the subject property submit a protest petition, then the zone change can only be approved by a three-fourths majority vote of the City Council.

She further explained that the City's current code is more restrictive, allowing for protest petitions even when the proposed zone change is consistent with the Comprehensive Plan. Staff noted that this creates a higher barrier to implementing zone changes, limiting the community's ability to adapt and grow.

Ultimately, the discussion needs to center around the broader question of how difficult the community wants it to be to enact change. If the community's goal is to preserve the current character and limit growth, retaining the existing protest provisions would support that outcome by making change more difficult. However, if the goal is to be more business friendly, encourage and promote growth, and align with the vision of the Comprehensive Plan, staff is recommending amending the Code to mirror the state statute—allowing protests only when a proposed zone change is out of line with the vision outlined in the Comprehensive Plan.

She concluded her report and recommendation by noting that some minor typographical and formatting errors in the Code have been corrected; however, none of these changes materially affect the substance of the regulations. Recognizing that a significant amount of information was presented in a short time, she asked the Planning Commission if there were any points that required further clarification before opening the floor for public comment.

Commissioner Taylor requested clarification regarding the Comprehensive Plan, noting that, to his knowledge, it was never voted on by the public and was instead based on input from approximately 400 or fewer individuals. He asked if that understanding was accurate.

In response, Ms. Folck clarified that the current discussion was focused on the Zoning Code, and that the Comprehensive Plan would be addressed in more detail under the next agenda item. However, regarding the Comprehensive Plan process, she explained that, as with other matters in the City of Gering, the entire community does not vote directly on every decision. Instead, residents elect City Council representatives, who are ultimately responsible for approving items such as the Comprehensive Plan, with input and recommendations from the Planning Commission. She added that it is not practical to hold a citywide vote on a complex planning document like the Comprehensive Plan.

Chairman Miles raised a question relating to zoning and the placement of garden supply stores. He recalled a previous discussion from several months ago involving a proposed zone change, where concerns had been raised about proximity to residential areas. He noted that there were comments at the time suggesting certain uses were not permitted near residential zones. Referring to the current recommendation, he asked for clarification on whether staff is suggesting garden supply stores be permitted in the C-2 zoning district. He emphasized the importance of ensuring that this decision would not create future conflicts and referenced Kautz location, noting that it is near residential properties.

In response, Ms. Folck shared the current zoning map and explained that C-2 corresponds to the Central Business District. She pointed out that this zoning designation includes downtown areas, extends along M Street, follows 10th Street, and continues into Kimball Avenue. She added that there is existing commercial zoning across the street from the Gering Garden Center, which was a part of the discussion when they chose to rezone it.

She clarified that C-2 serves as a middle-ground commercial zone—more permissive than C-1 (Neighborhood Commercial) but less intensive than C-3 (General Commercial). She acknowledged that C-2 areas are frequently located adjacent to residential zones. While a future discussion will determine

whether to rezone the Gering Garden Center specifically, her current recommendation is to consider allowing garden supply stores in C-2. She explained that this use is not particularly intensive and likely would not cause significant issues in areas zoned C-2, making it a more appropriate and flexible option than C-3.

Commissioner Crews asked for clarification on the definition of "Commercial Services, Limited."

Ms. Folck explained that this classification typically includes service providers such as plumbers, electricians, and similar trades. She contrasted it with the "Commercial Services" category, which allows for fleet yards—such as those operated by businesses like Robinson Electric, where there is a high volume of traffic. In contrast, "Commercial Services, Limited" does not allow fleet yards and is generally intended for smaller-scale operations, often run by a single individual, resulting in significantly less traffic. She added that while traffic concerns are minimal with these uses—which is likely why they were originally included in the code—they don't necessarily align with the intent of neighborhood commercial zones, which are designed to provide goods and services close to where people live.

Chairman Miles asked whether any of the uses being omitted from the C-1 zoning district currently exist within areas already zoned C-1.

Ms. Folck responded that there are currently no properties within the City that are zoned C-1. She noted that this makes it an ideal time to implement changes to the C-1 district, as there would be no immediate impact on existing uses.

Commissioner Keener, while noting that there are no hospitals located in Gering, inquired if medical centers would be included under the provision of the 1,000-foot buffer rule for cultivator licenses. He raised a similar question about whether in-home daycares fall under the daycare restriction. Ms. Folck confirmed that in-home daycares do fall within the scope of the rule. Regarding medical clinics, she indicated that while they likely do qualify, confirmation from legal counsel would be necessary. She noted that this topic may be addressed in the State of Nebraska requirements included in the meeting packet, but further clarification may be provided as the emergency regulations transition to permanent ones, given that likely the requirements were pulled together quickly.

Commissioner Taylor inquired whether the zoning regulations being considered for cultivator licenses would be more restrictive than those applied to establishments such as Scott Free Brewery. Ms. Folck asked if he was referring to the liquor license process, and Commissioner Taylor confirmed he was, or at least the process required to operate. She clarified that the brewery's licensing process was handled through the state, not the City, and that similarly, the cultivator license requirements would involve a state-level licensing process. The City would not be directly responsible for that aspect.

Commissioner Taylor then remarked that the proposed zoning might impose more restrictions than the state requires and asked for clarification on the difference. Ms. Folck responded that this decision would be up to the Commission. The state mandates a 1,000-foot buffer, and the question before the Commission is whether to impose an additional 500-foot buffer from residential areas. In addressing Commissioner Keener's earlier question, she noted that given the locations of medical clinics within the City, the added 500-foot residential buffer would likely make those areas ineligible regardless, due to nearby residences.

Commissioner Tony Kaufman inquired what other communities are doing in terms of cannabis regulations. Ms. Folck responded that not many have addressed the issue at this point and among those that have, the approaches vary significantly. She noted that some communities are attempting to be as restrictive as possible. Commissioner Kaufman requested clarification on what that approach entails and whether staff had a recommendation.

Ms. Folck explained that, based on the zoning map, if the goal is to be as restrictive as possible, zoning in rural residential areas—with the addition of a 500-foot buffer from residences—would be the most limiting approach. She noted, however, that the Comprehensive Plan designates the area located on the southwest side of the City as appropriate for future rural residential zoning, making it the only viable location for rezoning that would remain in conformance with the Plan.

Commissioner Kaufman also asked whether any data was available regarding tax revenue generated by cannabis facilities. Ms. Folck stated that no such data had been identified at this time. He further asked whether implementing a conditional use permit (CUP) process would mean each application would be reviewed individually. Ms. Folck confirmed that it would.

Ms. Folck went on to note, while the goal is to establish regulations as soon as possible in anticipation of future proposals, there is flexibility to allow for additional time if needed. This could allow for gathering more information and reviewing the finalized permanent state regulations once released. However, she cautioned that the risk of delaying is that, if a proposal were submitted in the interim, staff would face challenges in determining appropriate locations without clear local guidelines in place.

Commissioner Keener asked whether staff would recommend using CUPs until the state's permanent regulations are finalized. Ms. Folck responded that she would recommend utilizing CUPs regardless of the status of permanent regulations. Given the nature of the use and the concerns surrounding it, she stated that having some level of oversight would be preferable. She further noted that it would also be helpful for staff to receive guidance from the Commission on which zoning districts would be considered appropriate for such uses.

Commissioner Taylor asked, if cannabis facilities were handled through CUPs, whether there is any guidance or concern given that CUPs are currently approved by the Planning Commission only and not City Council. He questioned whether this process could expose the City to increased legal risk, given the new and potentially controversial nature of the use.

Ms. Folck acknowledged that this concern had been raised, and noted that, for similarly intensive uses—such as meatpacking facilities—final CUP approval is required by City Council due to the level of public interest and impact. She stated she would not be opposed to applying the same requirement for cannabis-related facilities.

Commissioner Taylor suggested that such a process could be incorporated into the City's guidelines, maintaining the CUP process but requiring final approval by the City Council.

Chairman Miles asked if there were any further questions or comments from the Commissioners. Hearing none, he opened the floor to the public, inviting individuals to approach the podium to address the Planning Commission. He reminded speakers to state their name and address for the record, as well as to write it on the notepad provided at the podium. Each individual was allotted five minutes to speak and was permitted to speak only once.

### **Public Hearing**

Ben Backus, 440 O Street, a former City Council member, approached the podium to speak on the topic of the protest regulation. He shared that he had served on the Council when the issue previously arose and recalled that the proposal was rejected at the time. Following that meeting, he reflected on the matter and found it concerning that a small minority could block a project from moving forward. In response, he conducted research by reviewing the Zoning Code and relevant state statutes.

He explained that Nebraska is a Dillon's Rule state, meaning municipalities can only exercise powers that are expressly granted by the state. He noted that, according to state statute, if a provision is included in the municipality's Comprehensive Plan, it does not have to go through the protest process.

He expressed his support for bringing the City's Zoning Code into alignment with state statute and encouraged the Commission to approve the proposed change. Drawing from his experience on Council, he emphasized the number of legal challenges that can arise from inconsistencies and warned that maintaining a zoning code out of alignment with state statute could leave the City vulnerable to lawsuits.

Eric Kautz, 2005 O Street, addressed the Commission regarding two issues. He stated that he and his brother, Mike, co-own the Gering Garden Center. The business was established in 1975, and they later started two additional businesses in 1994. Mr. Kautz noted that he and his family have lived in the community for nearly 50 years, offering that background as context for those who may not know him personally.

Mr. Kautz voiced his concerns and interests regarding a zoning error made by the City approximately 11 years ago involving the garden center property and the surrounding land, totaling 17 acres. Mr. Kautz stated that the property was to be zoned as Central Business, and they had gone through all the appropriate steps at that time. The issue came to his attention last month when a zoning change request—from business to residential—was made for a property on D Street. Upon reviewing the zoning map, Mr. Kautz noticed that the zoning designation for his property was incorrect. He contacted the City Clerk, who referred him to the City Engineer (Annie Folck) for further review. Engineer Folck researched the issue and discovered that his property had not been properly zoned as commercial, as he had assumed. Mr. Kautz emphasized that he and his brother had done everything required on their end and that the zoning discrepancy was due to a City error, a failure to complete the sign-off process. He expressed appreciation for Annie's assistance in researching the matter.

Mr. Kautz also expressed he and his brother's interest in the potential opportunities related to medical marijuana. He noted that as growers with 50 years of experience and a long history of successfully expanding multiple businesses, they see this opportunity as a possible avenue for further business growth, job creation, and increased local revenue. While they have not made a final decision to pursue this venture, Mr. Kautz emphasized that the option could provide an opportunity to expand their business.

He acknowledged that if they do pursue involvement in the medical marijuana industry—whether in cultivation, dispensary operations, or distribution—there will likely be strict regulations and numerous parameters that are still undefined at the state level. Mr. Kautz noted that the state's direction remains unclear, and regulatory uncertainty continues to be a major factor. Given this uncertainty, he urged the Commission not to impose overly restrictive local regulations that could eliminate their opportunity to participate. He reiterated that he and his brother are willing to work with the City as the process unfolds and emphasized the long-term economic benefits such a business could bring if allowed to proceed under reasonable conditions. Mr. Kautz emphasized that the option could provide another year-round operation that benefits both their business and the broader community.

He further commented that, after reviewing the state's actions, the regulatory framework remains extremely vague. He observed that state officials appear uncertain about the direction they're taking and are receiving significant pushback from various perspectives. As a result, he cautioned that the process may take longer than anticipated.

Following this, Chairman Miles asked if there were any additional questions or comments from the Commissioners.

Commissioner Hauck raised a question regarding a previous meeting that included a public hearing, noting that the outcome was a "Nay" vote against the proposal. He asked what happened with that situation and why wasn't that meeting right? Chairman Miles responded that meeting pertained to a

different topic while the current meeting was focused solely on zoning code updates. Commissioner Hauck specified that he was referring to the Schaneman property.

Ms. Folck explained that the Planning Commission had issued no formal recommendation to the City Council due to a split vote. A majority of the Council did vote in favor of the proposal. However, a protest was filed, and because of the protest requirements, the motion failed despite the 5–2 majority vote in favor.

Commissioner Hauck expressed concern, asking whether the strong public turnout and feedback from that previous meeting effectively had no impact. He remarked that such outcomes reinforce the public perception that “you can’t beat city hall.”

Ms. Folck reiterated that the current discussion was not about a specific zone change request. She emphasized that, if the Schanamen property proposal—or any similar application—were to come forward again, the standard process would be followed: a public hearing would be held, the public would have the opportunity to weigh in, and the Planning Commission would vote. She added that no one likely left the prior meeting feeling the matter was fully resolved, as there were strong and divided opinions on both sides.

She further clarified that the applicant, as a property owner, has the right to due process and may submit a new application as often as they choose. Each submission must be considered accordingly. Staff’s goal moving forward is to ensure that, should the proposal return, the City has clearer zoning guidance and a more refined vision—making future decisions less divisive and allowing for a more conclusive outcome, whichever direction it may go. She noted that this topic would be explored further during the upcoming discussion on the Comprehensive Plan.

Commissioner Crews inquired about the protest process, noting that during his three years on the Commission, he hadn’t seen many and asked how frequently the City has experienced formal protests. He also asked whether there were any statistics available on the pass/fail rate of proposals when a protest was filed.

Ms. Folck responded that she could not speak to the full historical record, but since becoming City Engineer in 2017, there have been two instances where formal protests were filed. One involved a proposed zone change for multi-family housing, which was met with a protest. In that case, the City Council voted 6–2 in favor. The second was the more recent case already discussed earlier in this meeting, which failed despite receiving a 5–2 vote in support. She commented that the protests are not a common occurrence.

Peggy Fegler, 120 Buffalo, addressed the Commission, expressing confusion about the protest process—specifically, what it currently allows and what changes are being proposed.

Ms. Folck clarified that, under the City’s current code, a protest against a proposed zone change can be filed for any reason. However, if the City were to strictly follow state statute, protests would only be valid in cases where the proposed zoning change is not in accordance with the Comprehensive Plan.

Ms. Fegler responded by referencing the most recent protest and stated there was a reason the people did it. It was because they were changing the zoning and because of that they could protest. She asked for confirmation this statement was correct.

Ms. Folck confirmed that under the current code, residents can indeed protest any zoning change for any reason.

Ms. Fegler then asked for clarification regarding the state standard, asking “in accordance with what?”

Ms. Folck reiterated that the state standard allows for protests only when a proposed zoning change is not in accordance with the Comprehensive Plan.

Ms. Fegler stated that, in the case she referenced, the zoning change was not in accordance with the Comprehensive Plan, implying the protest would still have been valid under the state's criteria. Ms. Folck acknowledged the point and added that the Commission would be discussing potential amendments to the Comprehensive Plan in the next agenda item.

Ms. Fegler concluded by summarizing her understanding: if a proposed zone change is not in accordance with the Comprehensive Plan, residents can protest; if it is, they cannot. Ms. Folck confirmed that this would be correct under the state statute.

Kari Foreman, 3020 Monument Shadows, addressed the Commission next, asking if there would be opportunity for public input at future meetings and how would they would be notified.

Ms. Folck responded that this meeting was the first in the process related to proposed changes to the Zoning Code and the Comprehensive Plan. She stated that the next step would be a City Council meeting scheduled for September 8, where the matter would be considered. She further explained that if the property owner were to submit a new application for a zone change, the City would follow all requirements outlined in state statute, including notification to property owners within 300 feet of the subject property.

Ms. Foreman then asked about the current zoning of the area in question, specifically whether it is zoned Rural Residential or C-1. Ms. Folck confirmed that the area is currently zoned Rural Residential.

Ms. Foreman commented that the discussion at the beginning of the meeting was somewhat confusing, as she had initially thought the area was already zoned C-1. Ms. Folck clarified that the current zoning is Rural Residential but some residents did have concerns changing it to C-1 because of uses included in that zone.

Ms. Foreman added that zoning concerns were only part of the issue, and that safety—particularly the limited space in the area—was the major concern as well. Ms. Folck acknowledged the comment and reiterated that the Commission was not currently discussing a zone change.

Ms. Foreman concluded by emphasizing that residents want the area to remain residential.

Chairman Miles stated that with no further comments, the public hearing was closed at 6:48 p.m. He then asked for clarification on whether the Planning Commission would be voting on all proposed changes as a single motion or addressing them individually.

Ms. Folck responded that it would be up to the Commission to decide and to clearly state their motions. She requested that, specifically regarding medical cannabis, the Commission clarify whether they were prepared to take action at this meeting. If so, she asked that they specify whether a 500-foot buffer from residential properties should be included and identify which zoning districts they believe are appropriate for allowing cannabis-related uses.

Regarding the remaining proposed changes to the Zoning Code, Ms. Folck asked the Commission to indicate whether they supported the staff's full proposal or wished to modify or exclude any particular sections.

**A motion was made by Commissioner Taylor to recommend that the City Council approve the proposed changes to the C-1 zoning district and to postpone consideration of the medical marijuana regulations until the state finalizes its permanent rules.**

**Ms. Folck interjected to request clarification on whether the motion also included other proposed changes to the land use table—specifically, the addition of garden centers as a**

permitted use in C-2 and other proposed changes related to residential uses and the downtown district.

In response, Commissioner Taylor amended his motion, stating: “I move to approve all changes noted on the current land use table, excluding the medical marijuana regulations, which will be addressed at a future time.”

Ms. Folck then asked for clarification on whether the protest provision changes were included in the motion, suggesting they could be separated into a different recommendation if needed.

Chairman Miles noted that, in the absence of a second, the motion would not proceed. Commissioner C. Kaufman then asked for the motion to be repeated for clarity.

Commissioner Taylor restated his motion, clarifying that he moved to recommend approval to the City Council of all proposed changes to the land use table, including updates to the C-1 district and the changes to allow the Gering Garden Center use in the C-2 district. He specified that this recommendation excludes the medical marijuana regulations, which should be postponed until the state statutes and regulations are finalized. He also requested that the proposed changes related to protest requirements be considered as a separate vote.

Commissioner T. Kaufman asked if Commissioner Taylor would be willing to amend his motion to include guidance for how cannabis-related facilities should be handled. Specifically, he suggested the inclusion of language recommending that such facilities be subject to a Conditional Use Permit (CUP) process, with additional oversight—similar to what is currently required for uses like meatpacking facilities, where final approval is granted by the City Council, as advised by legal counsel.

Commissioner Kaufman also noted his agreement with the idea that, while further direction from the state is needed, it would be wise to have “the road striped” in case community members or businesses want to explore a future application related to cannabis-related facilities. By outlining the process in advance, he stated, the City would be better positioned to respond proactively to any future applications.

Commissioner Taylor agreed to amend his motion to include preliminary guidance for cannabis-related facilities. He specified that any future regulations should align with state requirements without adding additional local restrictions, except for the implementation of a Conditional Use Permit (CUP) process. He further clarified that final approval of such CUPs should rest with the City Council, mirroring the approach used for similarly intensive uses like meatpacking facilities.

**The motion was seconded by Commissioner T. Kaufman.**

**Discussion followed:** Ms. Folck clarified the implications of the amended motion. She explained that the City would move forward with adopting Section 5.12, which outlines the regulatory framework for cannabis-related facilities. However, the 500-foot buffer from residential properties would be removed from the draft. Additionally, cannabis uses would be required to obtain approval through a Conditional Use Permit (CUP), with final approval by the City Council, and the cannabis-related uses would not yet be added to the land use table.

A question was raised as to whether staff preferred that cannabis-related uses be added to the land use table at this time. Ms. Folck responded that, yes, incorporating the land use table at some point is the ideal approach. However, she acknowledged that if the Commission was not ready to make that decision, the matter could be revisited at the next meeting.

She emphasized that, in the meantime, requiring a CUP provides a layer of oversight and a path forward. Without the use being listed in the land use table, staff would be responsible for interpreting whether a proposed cannabis-related use aligns with the intent of the zoning district. If an applicant disagrees with that interpretation, the matter would then be escalated to the Board of Adjustment.

Chairman Miles then asked if there was any further discussion. There was none.

**The Secretary called the roll. “AYES”: Waterman, Taylor, Crews, Keener, Miles, C. Kaufman, T. Kaufman, Alvizar. “NAYS”: Hauck. Abstain: None. Absent: None. Motion carried.**

Chairman Miles asked for a motion regarding the Protest regulation.

Commissioner Taylor raised a question regarding the proposed changes to the protest regulation. He asked whether there was a way to differentiate between the roles of the Planning Commission and the City Council in the protest process. He explained that he would be comfortable removing the protest provision as it pertains to the City Council, but felt it was important for residents to retain the right to protest to the Planning Commission.

Ms. Folck clarified that the protest process is a tool to protest the recommendation of the Planning Commission when it moves forward to the City Council. A protest can only be filed after the Planning Commission has made a recommendation.

Commissioner Taylor acknowledged that he had misunderstood the process.

Ms. Folck further explained that the protest process is intended to elevate the standard required for approval by the City Council. Specifically, if residents attend a meeting, provide input, and the Planning Commission votes in a way that opposes their concerns, the protest provision gives residents a way to ensure the City Council must meet a higher threshold—typically a supermajority vote—to approve the proposed zone change.

Commissioner Taylor noted that there may have been a higher-than-usual approval requirement in place that evening. In response, Ms. Folck clarified that the increased threshold was unrelated to the protest; rather, the issue stemmed from a lower number of commissioners present. She explained that, according to the bylaws, a positive recommendation cannot be made with fewer than four affirmative votes. Commissioner Taylor thanked her for the clarification.

Chairman Miles commented that, due to the protest, a two-thirds vote by the Council was required. Ms. Folck corrected this, stating that the required threshold was actually a three-fourths vote. She further clarified that, under state statute, only a majority is typically required. However, when a valid protest is filed, state law raises the requirement to a three-fourths majority. The key difference lies when you can file a protest. Currently, a protest can be submitted for any zone change at any time. Under the proposed change to align with state statute, a protest could only be filed if the zone change is not in accordance with the Comprehensive Plan.

Commissioner Crews emphasized that the proposed change to the protest process would not affect the public's ability to comment on proposed zone changes, even if those changes are consistent with the Comprehensive Plan. Ms. Folck confirmed this, stating that the public notification procedures would remain unchanged. All property owners within 300 feet of the proposed site would still receive mailed notices, the property would be posted, and notice would be published in the newspaper. Members of the public would continue to have the opportunity to speak at public hearings held by both the Planning Commission and the City Council. The only change would be to the number of affirmative votes required by the Council to approve a zone change that aligns with the Comprehensive Plan.

Commissioner Taylor asked for clarification on whether a zone change application would still proceed to the City Council even if the Planning Commission issues a negative recommendation. Ms. Folck

confirmed that this is correct, noting that the Planning Commission serves as a recommending body for zone changes and does not have final decision-making authority. She added that, while it is uncommon, there have been instances where City Council has chosen not to follow the Planning Commission's recommendation.

**A motion was made by Commissioner T. Kaufman to approve recommending to City Council that we amend the language for the Protest regulation to align with state statute.**

**Seconded by Commissioner Keener.**

**Discussion followed:** Commissioner Crews noted that while it is important not to make it overly difficult to overcome obstacles, any proposed changes must also be approached with common sense. He acknowledged the complexity of the issue, stating that it is challenging because it requires careful consideration of both sides and interests.

**The Secretary called the roll. "AYES": Crews, Keener, Miles, C. Kaufman, T. Kaufman, Alvizar. "NAYS": Taylor, Hauck. Abstain: Waterman. Absent: None. Motion carried.**

### **C. Public Hearing to consider amendments to the Comprehensive Plan.**

Chairman Miles opened a public hearing at 7:01 p.m. to consider amendments to the Comprehensive Plan.

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

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|                  |                                                   |                                     |           |
|------------------|---------------------------------------------------|-------------------------------------|-----------|
| <b>To:</b>       | Planning Commission                               | <b>Date:</b>                        | 8/19/2025 |
| <b>From:</b>     | Planning & Community Development                  | <b>Zoning:</b>                      |           |
| <b>Subject:</b>  | Proposed Changes to the Gering Comprehensive Plan | <b>Property Size:</b>               |           |
| <b>Location:</b> | N/A                                               | <b>#Lots/Parcels:</b>               |           |
| <b>Owner:</b>    | N/A                                               | <b>City Council Public Hearing:</b> | 9/8/2025  |

**Public Notice:** This Public Hearing was noticed meeting the requirements of Nebraska State Statutes and City of Gering Zoning Regulations.

### **Agenda Item Summary**

Previously this year, the City considered a zone change for a property located on the corner of Five Rocks Road and Country Club Road. According to state statute, all zone changes should be consistent with the vision set forth in the City's Comprehensive Plan. The current Comprehensive Plan was adopted in 2019, and while overall it is a very good plan, during the process of considering that zone change, it became evident that there were a few inconsistencies.

Comprehensive plans are to lay out the desired future land use for the community. Many plans will state just one desired zoning district for each property or location. This tends to create plans that are overly prescriptive in nature that make it extremely hard for cities to allow for change, even in situations where proposed changes are very logical in nature. For this reason, when the City's current Comprehensive Plan was drafted, it was designed to be as flexible as possible and to make allowances for more than one use per location, as long as those uses all met the overall vision and goals for that area. Unfortunately, when it came to the intersection of Five Rocks Road and Country Club Road, the Plan is somewhat ambiguous. While it stated in the narrative that, "Neighborhood serving retail at key intersections and slightly higher-intensity housing would be appropriate at select locations, such as the northwest corner of Five Rocks Road and Country Club", the corresponding map in that section did not denote that particular intersection as a commercial node. In order to provide clarity and guidance to neighborhood residents, property owners, and potential developers, staff is recommending that the Comprehensive Plan be revised to clarify whether neighborhood commercial development would be appropriate at that intersection or not. Option 1 is to add a commercial node at that location. Option 2 is to leave the map unchanged and remove the references to that intersection from the narrative. This will allow for more consistent guidance if this issue comes up again in the future.

Additionally, staff is recommending to add some additional commercial nodes along the major roadway intersections with Highway 71 (the Heartland Expressway). These are prime locations for future commercial development, and residential development immediately adjacent to these high traffic locations is not ideal. Legal Counsel has also recommended rewording some of the language throughout the Plan to better clarify how the nodes are to be interpreted and applied to zone change considerations. Staff has also reviewed and cleaned up typos and references throughout the document.

Engineer Folck began her report by explaining that this topic stemmed from the issue related to the intersection of Five Rocks Road and Country Club Road. Staff is requesting clarification and guidance from the Commission on how to proceed with this area in future planning efforts.

She noted that, under the current Comprehensive Plan, there is an inconsistency between the written narrative and the corresponding map. The narrative within the District Framework section references the intersection as potentially appropriate for neighborhood commercial uses, but the map does not indicate a commercial node at that location. Staff is seeking clear direction on whether the intersection should be designated for commercial use or remain residential.

Engineer Folck emphasized the importance of consistency between the written narrative and the map to avoid confusion for residents, property owners, potential buyers, and developers. She stated that if the intent is for the area to remain residential, that should be clearly reflected in both the text and the map. Likewise, if commercial use is appropriate, that too should be clearly indicated in both sections.

Two options were presented for consideration:

Option 1: Retain the existing language in the narrative suggesting commercial use at the intersection and update the map to include a commercial node at that location. The same commercial node would also be added to the District Framework map.

Option 2: Remove the language in the district 1 narrative that refers to commercial use at the intersection and continue to omit the commercial node from the map.

In addition to that primary issue, Ms. Folck highlighted a few other changes made to the Comprehensive Plan. Commercial nodes were added along the Heartland Expressway at intersections with future Rundell Road, 7th Street, and 14th Street. Although these nodes were not previously shown

on the map, she noted that their inclusion aligns with the narrative's guidance on ideal commercial node locations.

Further revisions included legal counsel's cleanup of document language, staff corrections of typographical errors, and an updated annexation map. The annexation map now reflects areas that were officially annexed in 2022.

Ms. Folck concluded that unless there were strong opinions or concerns regarding the proposed commercial nodes along the Heartland Expressway, the key decision point for the meeting was to determine the long-term land use vision for the intersection at Five Rocks Road and Country Club Road. She stressed the importance of making a clear, unified decision to provide predictability for future development and avoid recurring debates over the area's intended use.

Commissioner Crews asked about the feasibility of creating additional access to the property from Highway 71. He acknowledged that ownership and jurisdiction would likely be a factor and requested clarification on the process and how realistic such access might be.

Ms. Folck explained that Five Rocks Road, while maintained by the City, is still technically under state ownership, as it remains state right-of-way. The City has a maintenance agreement in place, but does not own right-of-way. As a result, any new access points off of Five Rocks Road would require approval from the Nebraska Department of Transportation (NDOT). She shared that she had already spoken with the local District 5 Engineer from NDOT, who indicated that while such a request would not be automatically denied, it would need to be sent to NDOT in Lincoln for final approval. Based on initial assessments—including sight distance, roadway grade, and other safety considerations—the District 5 Engineer stated he would not be able to recommend approval.

Ms. Folck added that, without a recommendation from the District 5 Engineer, approval from the state would be highly unlikely. However, she noted that there is ample opportunity for access off of Country Club Road, which could support a viable commercial site.

Commissioner Taylor reiterated a concern he had raised at a previous meeting, emphasizing that—based on his understanding of local traffic patterns and potential business interest—the volume of travel in that area would be expected to be significant. He pointed out that the area currently has only one entrance and exit, and highlighted that traffic congestion is already an issue, particularly during school dismissals. He cautioned that, if new businesses such as a coffee shop or similar high-traffic use were introduced, it could lead to major traffic backups at that intersection.

Chairman Miles expressed his concerns about traffic in that area. He specifically noted the elevation of the lot and having access point egress on Five Rocks Road. As a result, he emphasized that Country Club Road would be the only viable access point, which he believes could become a serious issue.

He referenced the types of uses permitted under the C-1 zoning district, mentioning, for example, that his daughter attended a dance studio, one of the permitted uses. He noted that anyone who has seen a dance studio during peak times understands how much traffic and congestion it can generate. His concern is that, because the exact future use of the site is unknown, some allowed uses under C-1 could lead to substantial traffic problems. Chairman Miles further questioned whether road widening or the addition of extra lanes along Country Club Road might be possible to mitigate potential congestion. He acknowledged that this might be the only solution to alleviating what could otherwise become a problematic traffic bottleneck.

Ms. Folck responded by noting that traffic concerns at the intersection are already being addressed as part of the City's "Safe Streets for All" grant initiative. She explained that one of the first strategies being evaluated by the City's consultants is the optimization of signal timing at that location. She stated that adjusting and improving the timing and coordination of the traffic signals—including updating the relay system—could significantly increase the efficiency and capacity of the intersection. Ms. Folck emphasized that these improvements could be implemented at a relatively low cost.

Commissioner Keener echoed Ms. Folck's comments and added that intersection improvements could effectively ease traffic flow in the area. He cautioned against overemphasizing "what if" scenarios and expressed differing opinion that the types of uses being discussed, i.e., coffee shops, would create significant traffic issues. He noted that these businesses are designed for quick, drive-thru service and generally do not cause traffic to back up onto adjacent streets or highways. He also referenced physical therapy offices, explaining that their appointments typically last 30 minutes to an hour, meaning a relatively steady but low-volume flow of vehicles.

Drawing on his own experience managing a physical therapy business and frequenting coffee shops, Commissioner Keener shared that he has not had to wait in traffic at those types of locations. He concluded by saying he does not believe traffic congestion in the area will exceed what the community already experiences during a golf tournament or a busy day at the golf course.

Commissioner T. Kaufman inquired about the age of the existing Comprehensive Plan. Ms. Folck responded that the Comprehensive Plan was adopted in 2019, making it approximately six years old.

Commissioner Waterman asked whether there was an opportunity to widen the intersection on the west side to allow for dedicated turning lanes.

Ms. Folck responded that such an improvement could be possible, but it would largely depend on the type of development proposed for the site. If it were a gas station proposed, at a minimum that would be required. However, she noted that for most uses permitted under the C-1 zoning district, the expected traffic volumes would not warrant the cost of adding turning lanes. She added that implementing such improvements would likely require additional right-of-way by the property owner, but that these considerations could be addressed through the site design process if a more traffic-intensive use were proposed.

Commissioner Alvizar asked for clarification, noting that there would still be review and control depending on the type of development an applicant proposes—for example, a gas station. He emphasized that just because someone wants to build a gas station doesn't automatically mean they would be allowed to do so.

Ms. Folck confirmed this understanding, explaining that the current discussion is focused on the long-term vision for the intersection as outlined in the Comprehensive Plan. She noted that, in order for any development to proceed, the applicant would first need a zone change, and in this case, the only commercial zoning designation being considered would be C-1 (Neighborhood Commercial). That zone change would trigger the whole public process, including public hearings and Planning Commission and City Council review.

Furthermore, Ms. Folck explained that if a proposed use—like a gas station—is listed as a conditional use under C-1, it would still require a Conditional Use Permit (CUP), even after the zone change. She added that, personally, she would not be inclined to recommend a gas station at that specific location due to its proximity to residential areas and potential traffic concerns.

She reiterated that the goal of the Comprehensive Plan update is intended to guide future zoning decisions, and emphasized that it would be much easier for staff and decision-makers to evaluate future proposals if there is clear consensus now on whether a commercial node at that intersection is appropriate.

Commissioner T. Kaufman asked for a comparison between the proposed commercial node at Five Rocks Road and Country Club Road and the other commercial nodes identified on the larger map within the Comprehensive Plan. Specifically, he wanted to know about the availability of commercial space at the key four-corner intersections of those other nodes.

Ms. Folck responded by referencing the map and explaining that along the Heartland Expressway corridor, there is little developed, meaning that all corners are generally available for potential commercial development. However, she noted that as you move into more developed parts of town, space becomes much more limited. For example:

- At the 10<sup>th</sup> and D Street intersection, there are existing developments such as a bowling alley, a gas station, and a park, leaving only one corner with redevelopment potential.
- In District 1, one commercial node includes a dog park, Christian college, and City-owned canyon property, again leaving only one developable corner.
- At another node, the intersection of M Street and Five Rocks, the north side of the intersection is occupied by residential uses, and a church sits on the west side, again limiting commercial opportunities to a single corner.

At this time, Chairman Miles invited members of the public to come forward to address the Planning Commission on this topic.

Ben Backus, 440 O Street, former Council member, shared some historical context regarding the commercial node in question. He expressed that he feels City Council should have caught the issue earlier, suggesting that it might have been an oversight—possibly because an intern forgot to cut and paste a section properly. He noted that some may wonder why the Council had particular concerns about that area, explaining that the exact situation had arisen previously when a BBQ restaurant was proposed for the site. He recalled that during that previous proposal, there were protests and mixed opinions, describing the situation as “wishy-washy.” He stated that he attended all the Comprehensive Plan meetings and specifically remembered discussions at the Council level about that corner and the desire to encourage development at that intersection and move away from residential zoning and open it up for commercial use.

Peggy Fegler, 120 Buffalo, voiced concerns about traffic volume and speed at the intersection near Country Club Road and Five Rocks Road, particularly noting the high speeds of vehicles coming down from the golf course area. She stated that although the speed limit is 35 mph, it is frequently exceeded.

Ms. Fegler expressed thoughts that if a commercial business were developed at that location, it could result in an additional 100 cars per day, potentially doubling that to 200 trips in and out—especially for uses like a coffee shop.

She also referenced the new Amazon facility being constructed nearby, which is expected to bring additional traffic impacts. According to her understanding, Amazon plans to operate 2–3 semi-trucks daily, in addition to regular employee and delivery vehicle traffic, which may include vans. Based on her experience with other Amazon distribution centers, she noted that vehicle traffic often departs all at once, which could further contribute to congestion.

Ms. Fegler acknowledged that Ms. Folck had planned to conduct a traffic study once school was back in session, recognizing that school-related traffic significantly affects volumes. However, she emphasized that the Amazon facility's full impact has yet to be seen, as it is not yet operational. She expressed the view that a traffic study should be conducted after Amazon is fully operational, as it will provide a clearer and more accurate picture of traffic patterns and volumes in the area. Ms. Fegler concluded by urging caution in decision-making until the effects of both Amazon's operations and school traffic can be fully evaluated.

Kari Foreman, 3020 Monument Shadows, addressed the Planning Commission and expressed concern about the traffic conditions in the area, stating, "I live up there, so I know what the traffic is like—and it's terrible." She shared her observation that drivers don't stop or slow down and expressed concern for safety. She expressed that she feels like residents' voices are being overlooked in favor of commercial interests and stressed the need for balance. She urged the Commission to listen and consider the perspectives of those who live in the area.

Kari Huber, 3015 Monument Shadows, addressed the Planning Commission and shared her perspective as a recent returnee to the Gering area, having previously lived here before retiring to Arizona. She explained that after living in Arizona for several years, she and her family chose to return to Nebraska, settling back into the same Monument Shadows neighborhood (previously 3045 Monument Shadows) because they loved the area and missed Nebraska.

Ms. Huber expressed concern about the traffic impacts associated with potential commercial development near their neighborhood. She noted that while some may believe residents further down the street won't be affected, they already experience significant congestion on Five Rocks Road. She shared that they often have to wait through two to three traffic light cycles now just to make a left turn at the intersection, and voiced concern about how much worse it could become if commercial traffic is added.

In addition to traffic, she raised concerns about costs, asking who would be responsible for any road improvements—whether residents would be assessed for those changes. She also voiced concern about noise pollution as a potential issue. She remarked, "Noise pollution is a real thing in big cities, and it's going to be a big thing here too," pointing out that the area is a rural area.

She echoed Ms. Foreman's earlier sentiments, asking the Commission to seriously consider the perspectives of the residents who live in the area. And while Ms. Huber made clear that she is not against business, even admitting initial excitement at the idea—given her son is a physical therapist, perhaps it might draw him here—she emphasized that she doesn't think businesses should be placed in residential areas. She thanked the Commission.

Katie Smith, 90110 County Road 19, Scottsbluff, addressed the Planning Commission to share her perspective as the individual involved with the proposed development of the property. She began by acknowledging the concerns raised by residents, particularly regarding traffic, and emphasized that she has been actively working with architects to design a site plan that addresses those concerns. She explained that one potential solution is to set the building further back from the road, creating enough room on the site to allow for a 10-car stacking queue for the coffee shop drive-thru. She noted that the design could also include two drive-thru lanes, which would help alleviate any potential traffic back-ups. Additionally, the proposed plan includes 60 parking spaces, ensuring that adequate on-site parking would be provided.

Ms. Smith stressed that there are practical ways to reduce traffic concerns and make the development compatible with the area. She shared that she has also looked into incorporating golf cart parking, a

green space, and access from the nearby trail on Five Rocks Road, all with the intention of enhancing the safety, functionality, and community benefit of the site. She concluded by expressing that “I know there are concerns and don’t want this to be a negative for the community. I think there can be a lot of positive things to even help things be safer in that area. Bringing this to the community could bring a lot more community involvement and just be a really positive opportunity.”

Commissioner Alvizar interjected with a question regarding the potential number of lots that could be developed on that section of land. Ms. Folck responded by explaining that dividing the lot would be significantly limited by frontage along Country Club Road, as access off Five Rocks Road is not permitted. Additionally, she noted that access near the existing traffic signal would not be granted. Given these constraints, Ms. Folck stated that she would not recommend subdividing the property into multiple lots, and that at most, the site could potentially be divided into two lots, but even then it would be required to have a shared driveway.

Commissioner T. Kaufman asked whether Commissioner Alvizar's question regarding the number of lots was related to potential residential development. Commissioner Alvizar clarified that his question pertained specifically to commercial development. Ms. Folck further explained that if the property were to be developed as residential, it would necessitate the construction of a street system, similar to Buffalo Ridge, located across the street.

Commissioner Keener followed up on that thought, also noting that it was mentioned at the last meeting, and asked that if the land were developed as residential, how many homes could be constructed on that lot.

Ms. Folck responded, explaining that if the property were developed strictly for single-family homes, the estimate would be around 10 homes per acre, or approximately 30 homes on the site. However, she noted that a more likely scenario—given the neighborhood—might mirror Buffalo Ridge, which has a mix of duplexes and townhomes. In that case, the number could rise to around 60 residential homes, though she emphasized that this was all speculative.

Commissioner Keener concluded by noting that if that land were developed as residential—say, 40 homes—and assuming an average of 2–3 vehicles per household, the traffic impact could be quite substantial... “that’s a lot of cars.”

Wayne Klein, 322 Hallerest, Scottsbluff (a FedEx contractor for 30 years), also addressed the Commission, acknowledging the community concerns about traffic. He emphasized that FedEx takes traffic planning seriously, and routes are designed to avoid school congestion and peak traffic times, i.e. lunch time hours; in doing so, it is their goal to help create a better environment.

Mr. Klein noted he’s been a patient of Ms. Smith’s, referencing her existing facility south of Walgreens in Scottsbluff. It is a smaller business complex—shared with a chiropractor—whom Mr. Klein has also been a patient, has approximately eight parking spots. He noted that patients typically visit for 30 to 60 minutes; thus this results in maybe 15–20 people per day over a nine-hour window.

He acknowledged the earlier comment regarding residential development in the proposed lot could generate significantly more consistent daily traffic than businesses.

Regarding the proposed coffee shop, Mr. Klein reiterated points made by Katie Smith: the design allows for the building to be pushed back, with adequate stacking space and multiple lanes to prevent traffic backups. He emphasized that peak hours for coffee shops are limited, generally from 6:00–

10:00 a.m., with likely low volumes outside those hours. Based on his observations of other local drive-thrus like Scooter's, 6–8 cars at a time are typical, and turnover is quick.

Mr. Klein concluded by stating his belief that there is a plan that can work for everyone—one that would address traffic concerns, provide sales tax revenue for the city, and potentially support infrastructure improvements (like traffic light adjustments) to benefit the whole community.

Commissioner Taylor shared one additional thought. He emphasized that the Commission's intent is not to push back on specific businesses but rather to verify and align decisions with the existing Comprehensive Plan. He stated that, based on his reading and understanding of the current Comprehensive Plan, the area in question had previously been designated as residential. And if someone were to review the Plan now, it would still appear to be residential in nature. While it has been explained that the intent was for it to be designated as C-1 (commercial)—and that an oversight error may have caused the omission—the document as it currently stands does not reflect that designation, in his opinion.

Chairman Miles, noting there were no further comments, officially closed the public hearing at 7:32 p.m. He then requested a motion from the Planning Commission for a recommendation to the City Council.

Commissioner Waterman requested clarification of all the changes in question for the Comprehensive Plan. Ms. Folck explained that the proposed Comprehensive Plan updates include clean-up edits and typo corrections, an updated annexation map, and the addition of commercial nodes along the Heartland Expressway. The motion also needs to clarify the recommendation of one of the following two options:

- Option 1: Retain the existing language in the narrative suggesting commercial use at the intersection and update the map to include a commercial node at that location. The same commercial node would also be added to the District Framework map.
- Option 2: Remove the language in the district 1 narrative that refers to commercial use at the intersection and continue to omit the commercial node from the map.

**Commissioner Waterman made a motion to recommend the adoption of the commercial nodes at Heartland Expressway as well as the commercial node for District 1 as a C-1 Zone.**

**Ms. Folck asked Commissioner Waterman to confirm that the motion is recommending approval to City Council the clean-up language, the additional nodes on the Heartland Expressway, along with Option 1, the commercial designation for the intersection of Five Rocks Road and Country Club Road, to bring the Comprehensive Plan narrative and land use map into alignment, which he did.**

**Second by Commissioner C. Kaufman. There was no discussion.**

**The Secretary called the roll. “AYES”: Waterman, Crews, Keener, C. Kaufman, Alvizar. “NAYS”: Taylor, Miles, T. Kaufman, Hauck. Abstain: None. Absent: None. Motion carried.**

## **5. City Engineer Report**

Engineer Folck reported that both recommendations for changes to the Zoning Code Regulations and the Comprehensive Plan will go before the City Council at their first meeting in September, which falls on the second Monday of the month. She noted that members of the public are encouraged to attend if interested.

She noted the Planning Commission will also convene again in September. The agenda will be to review a CUP for the casino, which is being reapplied for. A CUP for this was last granted two years ago, and since no further extensions are available, a new application is required.

Ms. Folck also reported that the developer pursuing the multi-family housing project near McClellan Park has received a portion of the grant funding they had been seeking. As a result, initial design work and platting are expected to begin this fall, with housing construction anticipated to start in the spring.

## **6. Open Comments:**

Chairman Miles noted that discussion or action by the Planning Commission regarding unscheduled business will not take place. This section is for citizen comment only. He asked they state their name and address if they would like to address the Planning Commission.

There was none.

## **7. Adjourn**

**A motion was made by Commissioner Keener to adjourn. Seconded by Commissioner T. Kaufman. There was no discussion. The Secretary called the roll. "AYES": Waterman, Taylor, Crews, Keener, Miles, C. Kaufman, T. Kaufman, Hauck, Alvizar. "NAYS": None. Abstain: None. Absent: None. Motion carried.**

The meeting adjourned at 7:39 p.m.

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Jody Miles, Chairman

ATTEST:

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Karen Heins, Administrative Secretary

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

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|------------------|-------------------------------------------------------------------------------------------------|-------------------------------------|--------------|
| <b>To:</b>       | Planning Commission                                                                             | <b>Date:</b>                        | 9/9/2025     |
| <b>From:</b>     | Planning & Community Development                                                                | <b>Zoning:</b>                      | AG           |
| <b>Subject:</b>  | Recommendation & Report - Conditional Use Permit, Casino Resort and Racetrack                   | <b>Property Size:</b>               | 104.67 Acres |
| <b>Location:</b> | PT SW ¼ (N of ROW) Section 11 Township 21 Range 55 W of 6 <sup>th</sup> P.M., AKA 140777 Hwy 71 | <b>#Lots/Parcels:</b>               | 1            |
| <b>Owner:</b>    | Prairie Thunder Gering, LLC                                                                     | <b>City Council Public Hearing:</b> | N/A          |

Four years ago, the City of Gering received an application for a conditional use permit (CUP) from Prairie Thunder Gering (PTG) to construct and operate a 5/8-mile horse racetrack and a casino. The racetrack will be operated by Scotts Bluff Exposition and Racing (SBER). This CUP was originally approved on September 21, 2021. The City of Gering Zoning Code Section 2.2.2.H requires a project to have commenced within one year of approval, or the approval is void, unless the applicant requests an extension. A one-year extension was requested and granted at the Planning Commission meeting on July 19, 2022. That CUP expired on September 21, 2023, as due to a delay in obtaining a license from the State of Nebraska Racing and Gaming Commission, the applicants had still not begun construction. The City's Zoning Code only allows for a one-time extension of up to one year; thus, the applicant applied for a new Conditional Use Permit for the same project, which was granted on September 19, 2023. They were granted another one-year extension on August 20, 2024. However, the Nebraska Racing and Gaming Commission has still not acted on their application, so construction on the project has not begun. Because the CUP cannot be extended again, the applicant is once again applying for a new Conditional Use Permit.

The project site is located at 140777 Highway 71, within the City's Extraterritorial Zoning Jurisdiction. The property is currently zoned AG and is being actively farmed. The application proposes developing the property into a 5/8-mile horse racetrack, along with a testing and receiving barn, initially two stall barns with capacity for 200 stalls with expansion capability for four additional barns as needed, a paddock viewing area, winner's circle, separate horsemen lounge area, rooftop terrace and other state-of-the art facilities to support the racing activities. They also plan for an RV park. On race days they estimate between approximately 100 trucks with horse trailers accessing the facility.

While in the initial year after construction there may only be one race day held, over the next four years the plan is to hold five race days a year, increasing to fifteen race days starting in 2031. Races would likely occur during June and July with multiple races per day. For each single race, it is estimated that there would be 500 visitors. Once there are three race days, they estimate 2,000 people, and for concerts and other event days, they estimate upwards of 3,500 people. On race days, operations would begin at 7 a.m. with training time until 10 a.m. The first post time would be 2 p.m. Each race lasts about 14 seconds.

A casino resort would be constructed in conjunction with the horse racetrack. The casino resort would operate 24 hours a day year-round. The casino resort would consist of a 50,000 square foot gaming facility complete with 650+ electronic games, 20 table games, Draft Day Sports Lounge for sports wagering and simulcasting, show lounge with live entertainment, a 160-room hotel, indoor/outdoor pools, a 15,000

square foot Convention Center, three restaurants including Ruthie's Steak & Seafood, a travel center with semi-parking, an RV Park, and additional acres for future development. Approximately 300 full-time and part-time employees are expected to be hired to staff the facilities that are part of this project.

They will provide their own security personnel but will also work with local law enforcement as needed. On non-race days, they will have more than 1,133 parking spaces onsite to accommodate Casino visitors. Approximate Fire Code Occupancy is 1,500. They expect approximately 3,000 daily visitors. Daily approximate parking utilization is 2,300 calculated at an average of 1.3 occupants per vehicle. Fridays and Saturdays will generally run 30% higher in daily traffic versus Sunday through Thursday.

Exact lighting and signage details are not included at this time as those will be formulated in their development agreement with the City and further discussions with the City on code requirements, particularly in relation to an appropriate pylon sign on the property facing the expressway. Lighting in the parking lot will be LED lighting with surveillance built into the light poles. Track lighting for evening races will typically end by no later than 10 p.m. versus non-race days to be dictated by a mutual agreement with the City for proper lighting of the track facility for surveillance. The site selection along HWY 71 provides for easy access for those involved in the racing industry and spectators alike.

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

There are several policies in the Comprehensive Plan that are relevant to this application. Policy 2.1.A states, "Support the development of outdoor recreation and experiential tourism." The development of a horse racetrack would be a unique recreational opportunity for the Panhandle. Policy 3.2.B states, "Focus commercial development in areas that have good transportation access and support the development of multiple uses." In general, this development would have good access from Five Rocks Road, Kimball Avenue, and 14<sup>th</sup> Street. However, the site plan shows the main entrance to the facility along 14<sup>th</sup> Street. Staff has concerns about locating the main entrance on an unpaved road. Staff is recommending that if the entrance is to remain on 14<sup>th</sup> Street, that this street should be paved to City standards from the Expressway to where the pavement currently ends at the intersection with Beech Street. This will ensure that the roadway is better equipped to handle additional traffic and that dust does not become an issue for the facility or the surrounding neighborhood. Staff also recommends a traffic study to assess requirements for various roadway improvements as a result of the anticipated traffic impacts. Any identified traffic improvements should be installed at the cost of the applicant.

Policy 3.2.F states, "Enhance Gering's gateways and create a common vision for these areas." Because of its location along two of the main entryways into Gering, appearance of the facility will be extremely important in determining whether or not this proposal is acceptable. Building materials, design, and landscaping should all be considered, as this will be the first thing visitors will see as they enter the community from the south. Policy 3.2.H states, "Improve the appearance of the community". There are

some areas of the property that have old irrigation structures and steep slopes that have not been well maintained. These areas should be improved as part of this proposal. See attached site plan and pictures of existing property for more information.

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

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

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

In recognition of the cost involved in having a detailed, engineered site plan prepared prior to approval of the CUP, staff is recommending one of the conditions of approval to be that the applicant will go through the Development Plan Review Process described in Section 2.2.4 of the City’s Zoning Code. This process outlines all of the details that must be included in the development plan and will require the finalized development plan to go before Planning Commission and City Council for final approval before construction of the facility may begin. This allows for the approval of the CUP at this meeting, while also allowing for additional oversight of the development once the facility design is completed.

Staff is recommending the following conditions for the approval of the CUP:

1. A development agreement will be executed whereby PTG agrees to the following:
  - a. PTG will be responsible for all necessary utility improvements to bring water and sewer to the property. In order to provide adequate fire flows, the water line shall connect to the City’s system in two locations: Five Rocks Road and 14<sup>th</sup> Street. All water lines installed will be a minimum pipe size of 8” and must include hydrants at spacings required by code. Sewer will be extended to the property from the sewer interceptor located at the intersection of 7<sup>th</sup> Street and Highway 71. The sewer line must be a minimum of 8”. The City will be responsible for any oversizing costs above 8”.
  - b. PTG shall pay to extend utilities to the southwest and southeast corners of the property so that utilities will be available for extension to adjacent properties in the

future. Water and sewer should be kept in the right-of-way wherever possible. Where not possible, easements shall be granted to the City to access and maintain this infrastructure. No dead-end water mains will be allowed.

- c. PTG will provide landscaping along Highway 71, Five Rocks Road, and Kimball Avenue in accordance with the requirements for the C-1 zone in section 5.5 of the City's Zoning Code. Additionally, adequate landscape and open space buffering shall be required adjacent to any residentially zoned property.
  - d. Irrigation structures will be removed and slopes will be regraded along Kimball Avenue to reduce erosion and provide for a more easily maintainable landscaping area. Slopes will be stabilized with beneficial vegetation.
  - e. Stormwater retention will be provided in accordance with Ordinance 2040.
  - f. All lighting shall be LED lighting, shielded and directed downward in a manner that minimizes glare, light trespass and skyglow.
  - g. Amplified sound shall not create a nuisance and be directed away from nearby residential development.
  - h. Building materials and facades shall conform to the renderings that are included as part of the application.
  - i. The property shall be annexed after utilities are extended to the property.
  - j. PTG will conduct a traffic study to assess requirements for various roadway improvements as a result of the anticipated traffic impacts. This will include the most likely and most feasible primary entrance to the Casino as well as auxiliary entrances. PTG will share the results of the traffic study with the City. Any roadway improvements necessary to address identified traffic impacts shall be installed and paid for by PTG.
- 2. SBER must have Racing and Gaming licenses from the Nebraska Racing and Gaming Commission and meet all conditions of the licenses, in addition to any and all applicable local, state, and federal requirements.
  - 3. The property must be kept well maintained, with proper weed management and landscape maintenance. Manure will be managed appropriately and removed from the site in a timely manner to eliminate smells. All runoff that comes into contact with manure shall be retained on site.
  - 4. All landscape areas shall be irrigated. Plant materials shall be primarily drought tolerant native or well-adapted species.
  - 5. Building plans will be submitted to the Nebraska State Fire Marshal prior to the start of construction. All requirements for fire suppression and life safety code shall be met.
  - 6. PTG will provide traffic control as requested by the City on race days and for other special events.
  - 7. Signage is subject to the City of Gering sign regulations (Section 5.9 of the Zoning Regulations).

8. The issuance of the Conditional Use Permit is subject to review and approval of the Planning Commission and City Council through the Development Plan Review Process outlined in Section 2.2.4 of the Zoning Regulations.

### **MOTION**

#### **Approve**

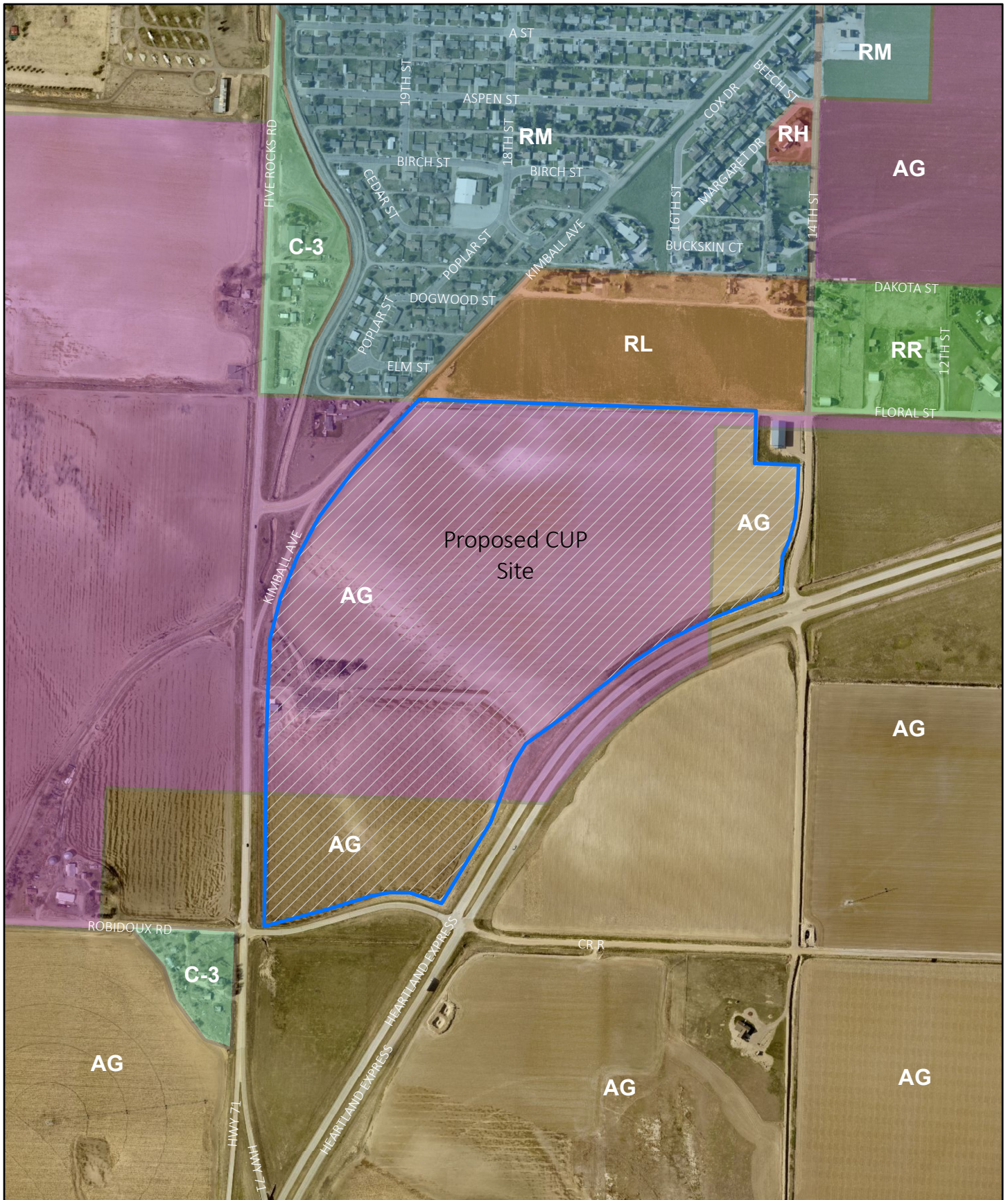
Approve Resolution 9-25-1 granting a Conditional Use Permit to Prairie Thunder Gering (PTG) to operate a Horse Racing Track and Casino Resort at 140777 Highway 71 with the following conditions:

#### **Deny**

Deny Resolution 9-25-1 granting a Conditional Use Permit to Prairie Thunder Gering (PTG) to operate a Horse Racing Track and Casino Resort at 140777 Highway 71 for the following reasons:

#### **Table**

Table Resolution 9-25-1 granting a Conditional Use Permit to Prairie Thunder Gering (PTG) operate a Horse Racing Track and Casino Resort at 140777 Highway 71 for the following reasons:



#### Zone Boundaries

- AG Agriculture District
- RR Rural Residential District
- RL Residential Low-Density District
- RM Residential Medium-Density District
- RH Residential High-Density District
- C-3 General Commercial District

Final 9.6.2023  
S. Rodriguez

## ZONING MAP

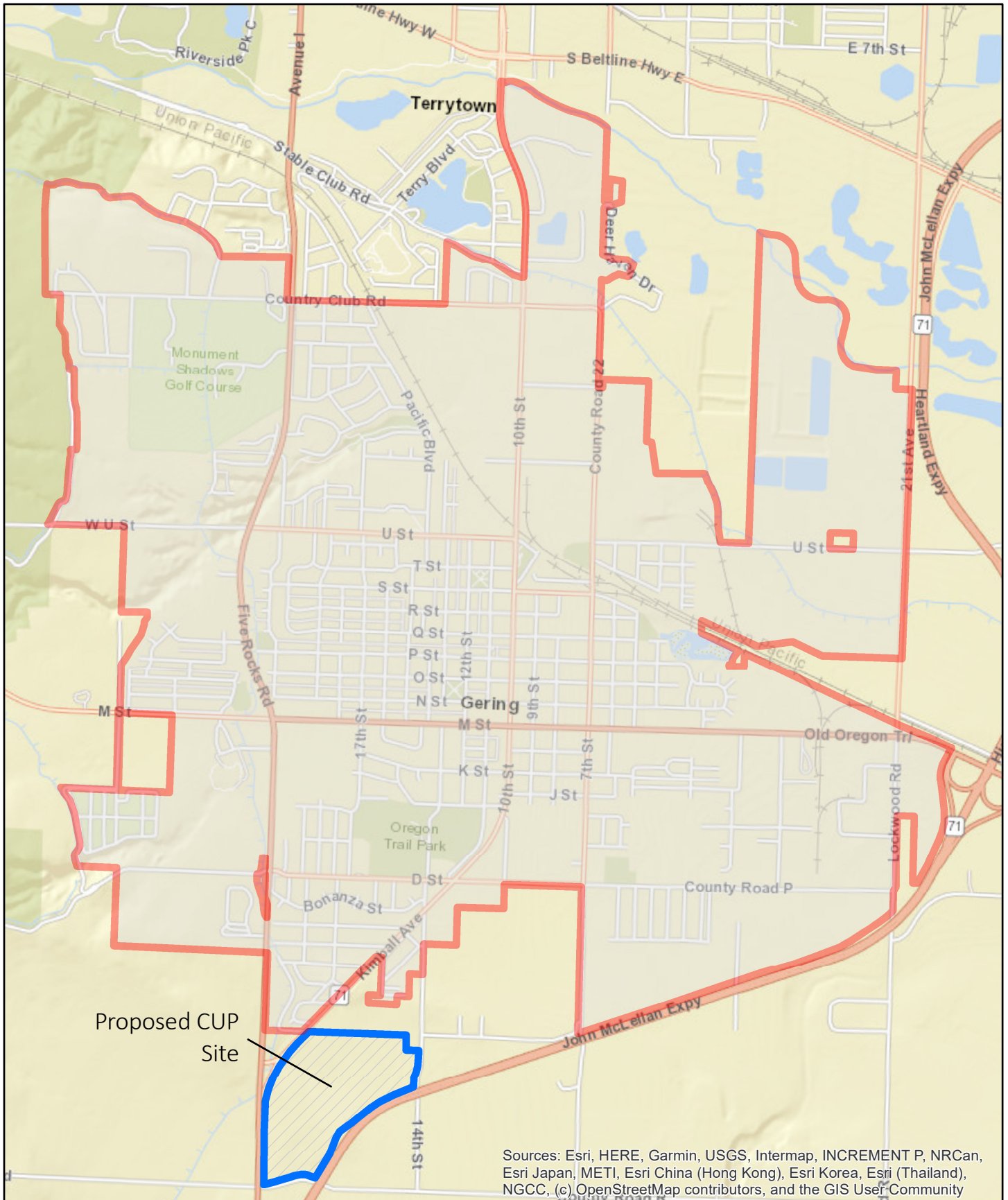
Engineering and Mapping Department City of Gering

NORTH



LINEAR SCALE (FEET)





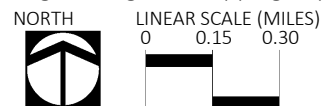
#### Legend

-  City Limits
-  Conditional Use Permit Site

Final 9.6.2023  
S. Rodriguez

## VICINITY MAP

Engineering and Mapping Department City of Gering



## APPLICATION FOR CONDITIONAL USE PERMIT

1. Date Filed \_\_\_\_\_ Planning Commission Hearing Date \_\_\_\_\_
2. Applicant Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_  
Email \_\_\_\_\_
3. Present Owner \_\_\_\_\_
4. Present Zoning \_\_\_\_\_
5. Legal Description of Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Present Use of Property \_\_\_\_\_
7. Desired Use of Property \_\_\_\_\_
8. Adjoining Property Use  
North \_\_\_\_\_ South \_\_\_\_\_  
East \_\_\_\_\_ West \_\_\_\_\_
9. Proposals for addressing the following criteria:

- 1) ACCESS: Ingress and egress of property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:

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2) PARKING: Off-street parking and loading areas where required, with particular attention to the items in (1) above and the noise, glare, odor or economic effects of the exception on adjoining properties generally in the district:

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3) SERVICE: Refuse and service areas, with particular reference to the items in (1) and (2) above:

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4) UTILITIES: Utilities, with references to location, availability, and compatibility

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5) SCREENING: Screening and buffering with reference to type, dimensions, and character

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6) SIGNS: Signs, if any, and proposed exterior lights with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district

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7) YARDS: Required yard and other open space

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8) COMPATIBILITY: General compatibility with adjacent properties and other property in the district.

A handwritten signature in blue ink, appearing to read "Brian E. Spivey".

for PTG, LLC

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**Applicant's Signature**

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**Property Owner's Signature  
(if different than applicant)**

# SCOTTS BLUFF CASINO RESORT & RACETRACK

GERING, NEBRASKA



ARCHITECTURE ENGINEERING PLANNING INTERIORS

Pre-Design | MARCH 2023









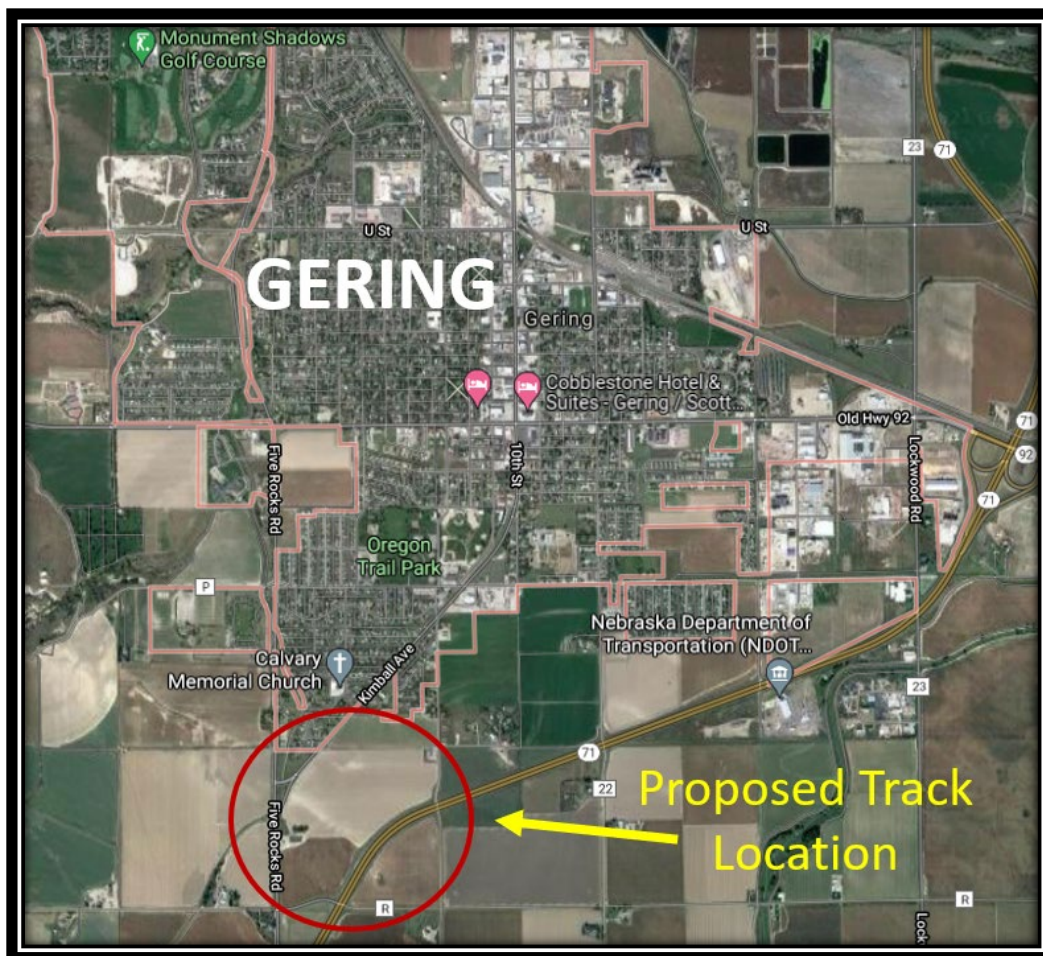


PRAIRIE THUNDER GERING, LLC  
1501 S. Burlington  
Hastings, NE 68901

Planning Commission – City of Gering  
c/o Annie Folck, Director – [afolck@gering.org](mailto:afolck@gering.org)

Commissioners:

Prairie Thunder Gering, LLC (“PTG”), owner of the land subject to this Condition Use Permit application, respectfully submits this Application for a Casino Resort & Racetrack Conditional Use Permit in Gering, Nebraska on a 104.67-acre site abutting the Heartland Expressway (a/k/a HWY 71):



Casino Resort and Racetrack land detail: 104 acres +/-



Our site plan:





### **CASINO RESORT & RACETRACK PLANS**

The Casino hotel resort portion of the facility will consist of an approximately 50,000 square foot gaming facility complete with 650+ electronic games, 20 table games, Draft Day Sports lounge for sports wagering and simulcasting, show lounge with live entertainment, a 160 room Hotel, indoor/outdoor pools, 15,000 square foot Convention Center, 3 restaurants including a Ruthie's Steak & Seafood, travel center with semi-parking, RV Park, and additional acres for future development. Our current concept for the Gering gaming facility is below:





We plan to hold one race day our first year and like five days for the next 4 years and then fifteen race days startign in 2031. There will be multiple races per day. Races would likely occur during June and July. The Nebraska Racing and Gaming Commission will approve the number of race days and the race day schedule in advance and SBER is committed to and will seek approval for multiple race days as discussed above following construction completion.

An additional important legal requirement is that in order to run any races at all at any licensed Nebraska racetrack, you must run at least one race with exclusively Nebraska bred and raised horses. To qualify, these horses must be pre-registered with the Nebraska

Quarter Racing association. Therefore, to get up to multiple race days and to comply with this law, there must be a sufficient number of qualifying quarter horses available to run the Nebraska bred races.

For each single race we conservatively expect 500 visitors, once we are at 3 race days we expect 2,000 people and for concerts and other event days we expect upwards of 3,500 people. Hours of operation for race days commence at 7am with training time until 10am. For race days the first post time will be 2pm. Each race lasts about 14 seconds.

### **OPERATIONS & PARKING**

Once constructed, the Casino would operate 24/7/365. We will provide our own security personnel but also look forward to working with local law enforcement as needed. On non-race days we will have more than 1,133 parking spaces on-site to accommodate Casino visitors. Approximate Fire Code Occupancy is 1,500. We expect approximately 3,000 daily visitors. Daily approximate parking utilization is 2,300 calculated at an average of 1.3 occupants per vehicle. Fridays and Saturdays will generally run 30% higher in daily traffic versus Sunday through Thursday.

Exact lighting and signage details are not included at this time as we understand those will be formulated in our development agreement with the City and further discussions with the City on code requirements, in particular relation to an appropriate pylon sign on the property facing the expressway.

Lighting in the parking lot will be LED lighting with surveillance built into the light poles. Track lighting for evening races will typically end by no later than 10 P.M. versus non-race days to be dictated by a mutual agreement with the City for proper lighting of the track facility for surveillance.



### **RACETRACK FEATURES**

Beyond the Track itself supporting features shall include but not be limited to a testing and receiving barn, initially two (2) stall barns with capacity for 200 stalls with expansion capability for four (4) additional barns as needed, a paddock viewing area, winner's circle, separate horsemen lounge area, rooftop terrace and other state-of-the-art facilities to support the racing activities. We also plan for an RV park. On race days we estimate between approximately 100 trucks with horse trailers accessing the facility.

### **SERVICE AREA**

The Scottsbluff/Gering/Terry Town Micropolitan Statistical Area population is 39,512 and expected to grow by 22% over the next 10 years. This region carries much of the remainder of Nebraska's population base in closing out the western boundary. The area is rich in agriculture and the hub for much of the west though its near routes to major highway corridors. The site selection along HWY 71 provides for easy access for those involved in the racing industry and spectators alike.

### **CASINO RESORT DEVELOPERS**

To further ensure Scottsbluff/Gering Casino Resort and quarter horse race track and overall success, we have partnered with a company that has over sixty years' experience in hospitality and over thirty years' experience in the gaming industry; Elite Casino Resorts ("ECR") owned and operated by the Kehl Family who presently operate the Grand Island Casino Resort.

### **The Kehl Family beginning**

Robert and Ruth Kehl got into business buying a café in downtown Dubuque, Iowa. By the 1970s, their business had expanded to catering and by 1973 they purchased a 150-passenger sternwheeler, River Rogue for dinner cruises. In 1977, they commissioned a 377-passenger boat, the Spirit of Dubuque. In 1982, The Mississippi Belle, a 600-passenger boat, was launched and in 1984 the Mississippi Belle II, an 800-passenger boat. By 1988, the business expanded to West Virginia with the West Virginia Belle, a 1,000-passenger boat. Their children all grew up in the riverboat business working various positions.

In 1986, Robert and Ruth Kehl received the National Small Business of the Year Award from President Reagan.

Ironically, the Kehls were opposed to the idea of riverboat gambling when the idea was first floated in the Iowa Legislature in the late 1980s. They initially believed riverboat gambling would threaten their dinner cruise business. The Kehls soon figured out that gambling would pass to help increase tourism in the economically struggling river cities. The Kehls knew the river better than most, and knew how to build and operate boats, and were great at marketing the tourism industry in the communities in which they operated. Consequently, the Kehls decided to throw their hat in the ring for a gaming license.

On March 8, 1990, Dubuque Casino Belle, Inc., a corporation owned and operated by Robert and Ruth Kehl, was granted the first riverboat gaming operator's license in Iowa. The license was issued by the Iowa Racing and Gaming Commission, on April 1, 1990. The Dubuque Casino Belle became the first vessel licensed in the United States to offer gambling cruises.

The Kehls received their second license in 1991 for Mississippi Belle II, Inc. The Mississippi Belle II started riverboat gaming operations on June 1, 1991, in Clinton, IA.

Less than three years later only a few boats survived, and most were facing bankruptcy due to increased competition from Illinois, which did not have the same restrictive gaming laws that Iowa had (no max bet limits, dockside gaming, 24-hour gaming, more than 30% of the boat could be used for gaming). Some of those operators left their communities and sailed to another state, leaving their employees without a job, without notice and their host communities holding substantial debt. In the Fort Madison and Burlington, Iowa area, their riverboat literally sailed away without notice. In January 1994, the Kehls partnered with community leaders to bring back riverboat gaming, tourism, and jobs to their community. In this partnership, the Kehls created a business

model that allowed local residents to purchase shares in the new riverboat casino while maintaining majority ownership.

The Kehls also advocated for new gaming legislation in Iowa in 1994, which led to a cautious and stable rebuilding of the Iowa gaming industry, bringing it back slowly and steadily.

The Kehls had an interest in and operated a total of four riverboat casinos in the Midwest; Dubuque Casino Belle, the Mississippi Belle II, Catfish Bend Casino, Fort Madison/Burlington, Iowa; and Saint Joe Frontier Casino, St. Joe, Missouri.

The fruits of Robert and Ruth's labors have always been generously shared with others. As philanthropists, they have helped open the Kehl Diabetes Center of UnityPoint Health-Finley, as well as the Robert and Ruth Kehl Center at Clarke University.

### **ELITE CASINO RESORTS, LLC Today**

The Kehl family and trusts have majority ownership in Elite Casino Resorts, LLC, which 100% owns and operates the Riverside Casino & Golf Resort in Washington County, Iowa which opened in 2006; Grand Falls Casino & Golf Resort in Lyon County, Iowa, which opened in 2011; Rhythm City Casino Resort, in Scott County, Iowa which reopened in 2016; 80% ownership in Grand Island Casino Resort, Grand Island, NE which opened in 2022 and 80% ownership in Walker's Bluff Casino Resort, in Carterville, IL and own 100% the Elite Sportsbooks in Iowa and Colorado.

In 2005, Riverside Casino & Golf Resort received one of only four new Iowa gaming licenses awarded by the Iowa Racing and Gaming Commission out of ten applications. In 2010, Grand Falls Casino & Golf Resort was the only license awarded by the Iowa Racing and Gaming Commission out of four applications. In 2014, the Kehls became owners of the existing riverboat casino license in Davenport, Iowa and constructed the land-based Rhythm City Casino Resort to replace the aging riverboat in June 2016.

As of 2015, the Kehls, the boards and the shareholders of each resort mentioned above, consolidated gaming operations to form Elite Casino Resorts, LLC. The consolidation further strengthened operations and put the company in a position for better buying power with vendors, efficient management within operational departments and utilized resources better between the three resorts.

In May of 2019, sports wagering became legal in Iowa. Elite Casino Resorts, LLC decided to create their own sportsbook, ELITE Sportsbook. In August 2019, ELITE Sportsbook was one of two sportsbooks in the state ready to launch on opening day. In

2020, ELITE Sportsbook received approval from the Colorado Division of Gaming to begin retail and online sports betting in the State of Colorado.

Grand Island Casino Resort temporary facility in Grand Island, NE opened in December 2022 licensed by the Nebraska Racing and Gaming Commission. Grand Island Casino Resort is a partnership between Elite Casino Resorts and Fonner Park.

Elite Casino Resorts recently completed a new casino resort development in Southern Illinois. Walker's Bluff Casino Resort is a partnership between Elite Casino Resorts and the Walker's Bluff Winery, a locally owned Southern Illinois business partner, and it opened in 2023.

On August 19, 2025 Elite plans to open the temporary casino at the Lake Mac Casino Resort and Racetrack location in Ogallala following quarter horse racing earlier in the day conducted by Hastings Exposition and Racing, Inc.

### **KEHL MANAGEMENT**

Kehl Management is owned by Dan Kehl, Bobby Kehl and Karlyn Ollendick. They are the management company for all Elite Casino Resorts providing the day-to-day management and are responsible for the officers of the company. Their expertise focuses on providing the highest possible level of guest satisfaction and providing the highest quality facilities and amenities. Operating with a conservative management style, Kehl Management strives to increase revenues and maximum returns for all the stakeholders, the counties, cities, states where they operate, and for the investors.

This type of additional expertise confidently allows SBER to state its races will be planned and ran with the utmost attention to detail and responsiveness to the needs of all involved who we welcome to Gering from the Exercise Rider and Valet to the Stable Foreman and Jockey and everyone in between.

In addition to those directly involved in our race days, we are excited for the economic expansion that will benefit the local economy with the increased activity and utilization of existing hotel rooms, restaurants, and other local businesses.

### **FAMILY FRIENDLY**

Beyond racing and gaming activities we plan to have tours of the facility for those interested in learning more about horse racing. We also plan to have concerts and other outdoor activities the entire community can enjoy.



## Concerts/Community Events

### OUR MISSION

While the above are conceptual previews of our long-term plan, first and foremost, our focus is bringing quarter horse racing to Scotts Bluff County and revitalizing this dying industry. For over 22 years the Becker family has been keeping the dream of a quarter horse racing circuit alive and adding Gering to the existing Ogallala

quarter horse track will further help support and grow horse breeding, training, and racing – in western Nebraska. The non-profit who will operate the track, Scottsbluff Racing and Exposition, Inc., "SBER", will be laser focused on the development and successful management of the racetrack and fostering the rebirth of Nebraska's horsemen and women.

Not only will racing contribute meaningfully to this revitalization, but our economic analysis also suggests that the first ten-year (10) contributions to the State of Nebraska from new gaming tax generation will be approximately \$80,000,000, with over \$12,500,000 to Scotts Bluff County and \$12,500,000 to the City of Gering.

The total Project Investment is estimated at \$100,000,000. Team members that will be hired to support the racing and gaming operation will number approximately 300 full-time and part-time employees with total annual compensation with benefits projected from \$14.25 million to \$15.0 million.

The value the Gering facility will bring to the local economy through added tax revenue generated through visiting horsemen, Jockey's, horse players and tourism will help satisfy our commitment to local agriculture. By creating a collaboration with both the local and agricultural communities we will stimulate awareness for strengthening horse racing through programs designed to promulgate growth throughout Nebraska horse racing and breeding.

### **RACETRACK MANAGEMENT**

- Cynthia Smith

Cynthia brings over 16 years in both quarter horse and thoroughbred racing regulation and racetrack operations from east to west coast. More recently, Smith was specifically selected by the Iowa Racing and Gaming Commission and the Iowa Quarter Horse Racing



Association to serve as a steward at Prairie Meadows.

Smith has also been involved in the Association of Racing Commissioners International serving on the continuing education committee, numerous benevolent programs, including the Racetrack Chaplaincy of America and teaching English as a Second language. Smith also attended the inaugural ARCI Race Investigators Certificate program at the University of Louisville Equine Industry Program. Her role as a racing official and steward gives her an advantage in the unique relationship between racetrack management and commission regulation to ensure the integrity of our sport. As President of Racing, Smith is an asset to the strategic plans for Nebraska quarter horse racing.

- Breann Becker

Breann Becker has grown up in the horse business her entire life and spent 5 years as President of Hastings Exposition and Racing, Inc. At the age of 7 she began to show in 4-H, at 9 went to over 80 rodeos per year for the Little Britches Rodeo Association, at 12 was competing in amateur rodeos across Nebraska, and by 18 had won over 100 buckles and 8 saddles. She has been very active in the American Quarter Horse Association.

Breann went to the University of Nebraska at Kearney for Accounting. Breann has worked at Lincoln Racecourse in each department as well as worked the teller line, bartended, and cleaned kiosks at the end of each shift. Recently, spring attended the AQHA Heritage banquet where they introduced her and informed the horsemen about the possible growth of Quarter Horse racing in Nebraska.



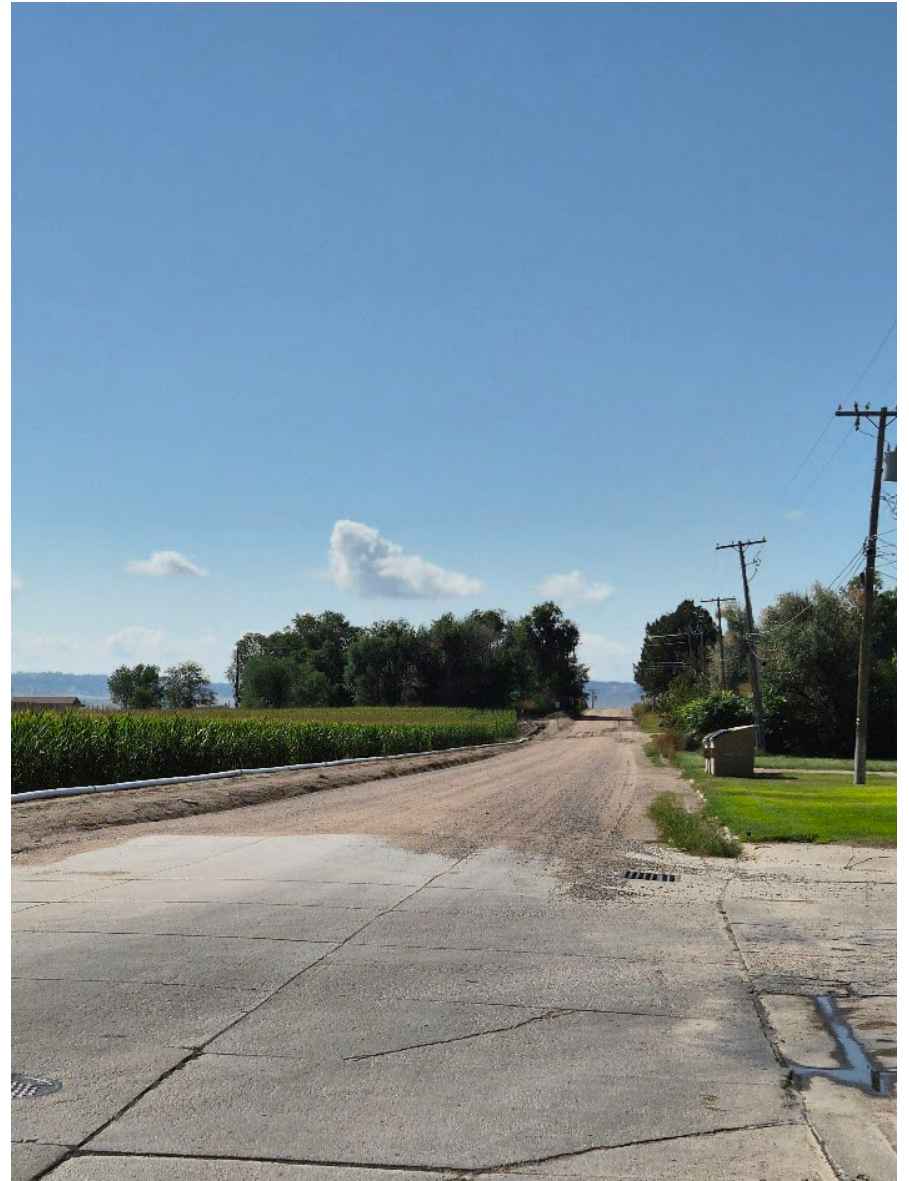
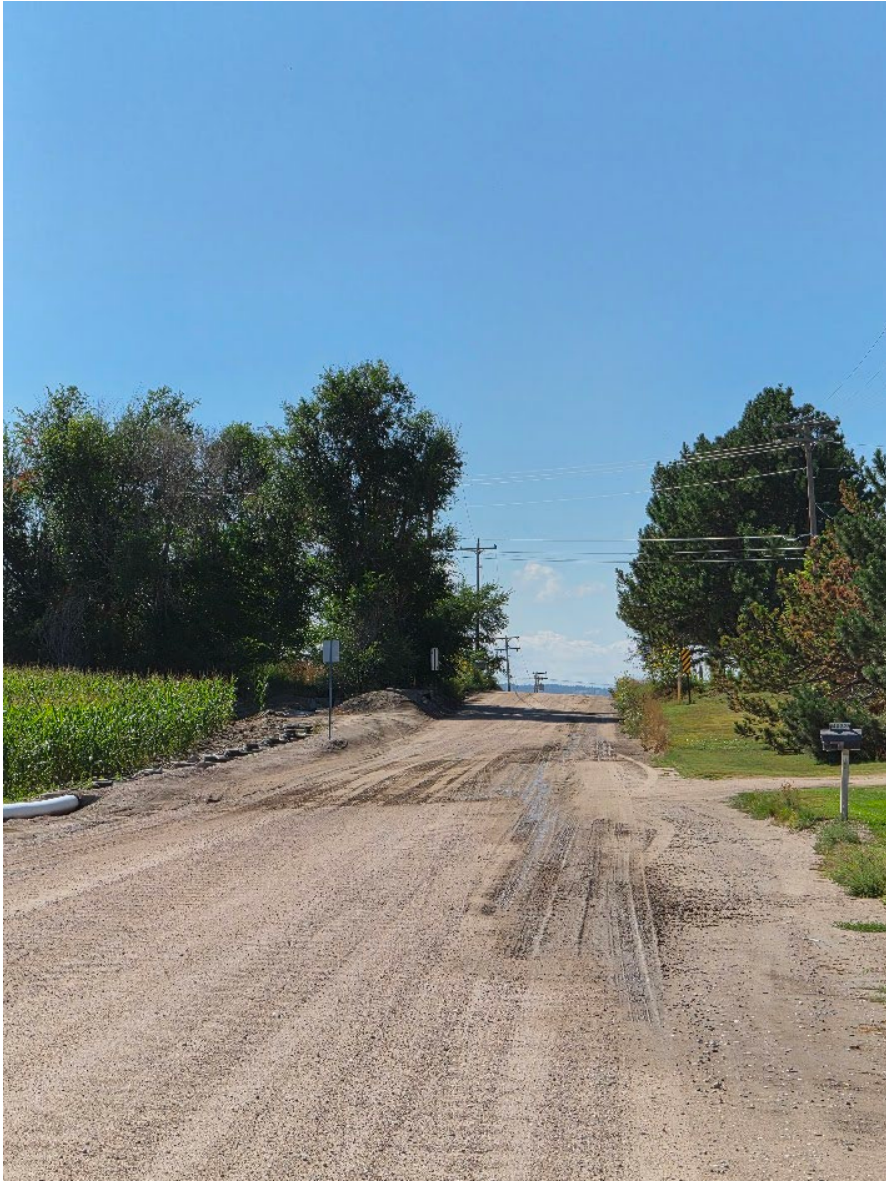
## **CONCLUSION**

We are humbled by the opportunity to present this vision for a Casino Resort and Racetrack and importantly to expand quarter horse breeding, training, and racing in Nebraska and particularly western Nebraska. Development of our Scotts Bluff County racetrack will further ensure western Nebraska can finally and fully participate in developing the horse racing industry for years to come. We welcome any questions, feedback, and suggestions you have and view you also as our partners in making this operation a success for all.

Respectfully submitted,

Prairie Thunder Gering, LLC  
Scotts Bluff Exposition and Racing, Inc.





## **RESOLUTION PC 9-25-1**

### **PRAIRIE THUNDER GERING CONDITIONAL USE PERMIT FOR RACETRACK AND CASINO**

#### **RECITALS:**

1. Pursuant to Gering Zoning Regulations, Article 2, a Conditional Use Permit application for a racetrack and casino has been submitted by Prairie Thunder Gering (PTG) to the Gering Planning Commission for a tract of land known as PART OF THE SOUTHWEST ¼ (N OF HWY 71 ROW) SECTION 11, TOWNSHIP 21, RANGE 55 WEST OF THE 6<sup>TH</sup> P.M., SCOTTS BLUFF COUNTY, NEBRASKA also known as 140777 Highway 71.
2. The Planning Commission has reviewed the application as to its conformity with the City of Gering Comprehensive Plan.
3. The Planning Commission has reviewed the application as to its conformity with the City of Gering Zoning Regulations.

#### **BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GERING NEBRASKA:**

1. The Planning Commission finds the Conditional Use Permit application for PART OF THE SOUTHWEST ¼ (N OF HWY 71 ROW) SECTION 11, TOWNSHIP 21, RANGE 55 WEST OF THE 6<sup>TH</sup> P.M., SCOTTS BLUFF COUNTY, NEBRASKA also known as 140777 Highway 71, conforms to the City of Gering Comprehensive Plan.
2. The Planning Commission finds the Conditional Use Permit application conforms to the City of Gering Zoning Regulations.
3. The Planning Commission imposes the following conditions for approval:
  1. A development agreement will be executed whereby PTG agrees to the following:
    - a. PTG will be responsible for all necessary utility improvements to bring water and sewer to the property. In order to provide adequate fire flows, the water line shall connect to the City's system in two locations: Five Rocks Road and 14<sup>th</sup> Street. All water lines installed will be a minimum pipe size of 8" and must include hydrants at spacings required by code. Sewer will be extended to the property from the sewer interceptor located at the intersection of 7<sup>th</sup> Street and Highway 71. The sewer line must be a minimum of 8". The City will be responsible for any oversizing costs above 8".
    - b. PTG shall pay to extend utilities to the southwest and southeast corners of the property so that utilities will be available for extension to adjacent properties in the future. Water and sewer should be kept in the right-of-way wherever possible. Where not possible, easements shall be granted to the City to access and maintain this infrastructure. No dead-end water mains will be allowed.
    - c. PTG will provide landscaping along Highway 71, Five Rocks Road, and Kimball Avenue in accordance with the requirements for the C-1 zone in section 5.5 of the City's Zoning Code. Additionally, adequate landscape and open space buffering shall be required adjacent to any residentially zoned property.
    - d. Irrigation structures will be removed and slopes will be regraded along Kimball Avenue to reduce erosion and provide for a more easily maintainable landscaping area. Slopes will be stabilized with beneficial vegetation.
    - e. Stormwater retention will be provided in accordance with Ordinance 2040.
    - f. All lighting shall be LED lighting, shielded and directed downward in a manner that minimizes glare, light trespass and skyglow.
    - g. Amplified sound shall not create a nuisance and be directed away from nearby residential development.

- h. Building materials and facades shall conform to the renderings that are included as part of the application.
    - i. The property shall be annexed after utilities are extended to the property.
    - j. PTG will conduct a traffic study to assess requirements for various roadway improvements as a result of the anticipated traffic impacts. This will include the most likely and most feasible primary entrance to the Casino as well as auxiliary entrances. PTG will share the results of the traffic study with the City. Any roadway improvements necessary to address identified traffic impacts shall be installed and paid for by PTG.
  - 2. Scotts Bluff Exposition and Racing (SBER), the racing operator, must have Racing and Gaming licenses from the Nebraska Racing and Gaming Commission and meet all conditions of the licenses, in addition to any and all applicable local, state, and federal requirements.
  - 3. The property must be kept well maintained, with proper weed management and landscape maintenance. Manure will be managed appropriately and removed from the site in a timely manner to eliminate smells. All runoff that comes into contact with manure shall be retained on site.
  - 4. All landscape areas shall be irrigated. Plant materials shall be primarily drought tolerant native or well-adapted species.
  - 5. Building plans will be submitted to the Nebraska State Fire Marshal prior to the start of construction. All requirements for fire suppression and life safety code shall be met.
  - 6. PTG will provide traffic control as requested by the City on race days and for other special events.
  - 7. Signage is subject to the City of Gering sign regulations (Section 5.9 of the Zoning Regulations).
  - 8. The issuance of the Conditional Use Permit is subject to review and approval of the Planning Commission and City Council through the Development Plan Review Process outlined in Section 2.2.4 of the Zoning Regulations.
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- 4. Such use shall be reviewed as to its status one year after the date this Resolution becomes effective.
  - 5. All prior Resolutions of the Commission in conflict with the terms and provisions of this Resolution shall be repealed to the extent of such conflicts.
  - 6. This Resolution shall become effective immediately upon its adoption.

PASSED and APPROVED this 9th day of September, 2025.

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Jody Miles, Chairman

ATTEST:

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Karen Heins, Secretary