

**THE OFFICIAL PROCEEDINGS OF THE GERING CITY PLANNING COMMISSION**  
**MEETING JULY 16, 2019**

The Gering City Planning Commission of Gering, Nebraska was held in open session at 6:00 p.m. in the Gering City Council Chambers. Present were Commissioners Allen, Bowman, Hauck, Kaufman, Marietta, Rajewich, Rechsteiner and Shimic. Alternate Commissioner Erdman was not present. Also, present were City Engineer Annie Folck, Ray Richards, Action Communications personnel, Jim Ellison, members of the public and Secretary Bruntz - Secretary to the Planning Commission.

Notice of the meeting was given in advance by publication in the Star Herald, the designated method of giving notice. Availability of the agenda was communicated in advance to the Media and Commissioners. All proceedings hereafter were taken while the meeting was open to the attendance of the public.

Chairman Rechsteiner called the meeting to order at 6:00 p.m., roll call was taken and the Pledge of Allegiance was recited; also reviewed were the Nebraska Revised Statutes Chapter 84, Article 14, which requires at least one copy of the Open Meetings Act be posted in the meeting room and the time limit for public comment.

Chairman Rechsteiner asked for a motion to approve or disapprove the minutes from the June 18, 2019 meeting. Commissioner Hauck made the motion to approve the minutes and Commissioner Rajewich seconded. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta, Rajewich, Rechsteiner and Shimic. "NAY": None. Absent: Erdman.

a.  
The City of Gering Planning Commission will hold a public hearing to consider an application for a Conditional Use Permit (CUP) on Block 16 Gardners Add Replat; Per Zoning and Sub-Division Regulations Section 7.2: BCB (C-2) Central Business District, Sub-Section 7.204 Exceptions, (11) Communication Towers. The property is otherwise known as 1718 11<sup>th</sup> Street in the City of Gering, Scotts Bluff County, Nebraska.

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

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<b>To:</b>	Planning Commission	<b>Date:</b>	7/16/19
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	BCB
<b>Subject:</b>	Recommendation & Report – Conditional Use Permit, Scotts Bluff County Communications Tower	<b>Property Size:</b>	2.06 Acres
<b>Location:</b>	Block 16, Gardner’s Addition Replat, aka 1718 11 <sup>th</sup> Street	<b>#Lots/Parcels:</b>	1
<b>Owner:</b>	Scotts Bluff County	<b>City Council Public Hearing:</b>	7/22/19

**Public Notice:** This Public Hearing was noticed meeting City Zoning and Subdivision Regulations.

## Public Hearing

Mr. Chairman and Commission Members,

This is a recommendation and report to consider an application for a Conditional Use Permit for a Communications Tower in the BCB zone. After receiving a negative recommendation from the Planning Commission when this project was previously submitted, the applicant has made some significant changes to the application in order to resubmit.

The tower is proposed to be located west of the old jail, along 11<sup>th</sup> Street (see attached site map). The tower is to be 150 feet in height, meeting the maximum height allowed as a conditional use in the BCB zone. The tower will be designed and engineered by a structural engineer to ensure that it meets all safety requirements.

The Planning Commission is asked to make a recommendation on whether or not a communications tower is appropriate for the proposed location and if there are any conditions that should be made incumbent on the applicant in order to receive the permit. See Section 13.3 of our zoning code (attached) which describes the criteria that the Planning Commission is to consider when determining whether to grant a Conditional Use Permit.

Staff advises that because the communications tower will be accessed from the County's parking lot and not the street, that access will not be an issue. Additionally, parking will not be an issue as there will very rarely be any parking needed, and when there is, the County has adequate parking on site. Service areas will not be necessary for this use. Utilities are available at this site and will not be affected by this use. No signs are proposed for the project. There are no required yard or other open spaces in the BCB zoning district.

Staff advises that the two criteria that need to be considered for the purposes of this permit are Screening and Compatibility. The County is planning on investing in wrought-iron fencing (see attached photo) in order to soften the appearance of the project. Staff has been working with the County and our local Community Forester through the Nebraska Forest Service to develop a plan for screening that is acceptable to all parties. Attached is a landscape plan that is proposed by the County to address the issues of Screening and Compatibility. Staff recommends approval of the Conditional Use Permit with the condition that the landscape plan and fencing must be installed as proposed with no changes or substitutions unless provided prior approval by the City. Due to timing of the project, it may not be possible to have the landscaping installed before winter, but landscaping should be completed no later than May 2020. The fence and landscape beds should be installed this fall.

Mr. Chairman and Commission Members, this completes my entry regarding this recommendation and report to consider this application for a Conditional Use Permit for a Communications Tower located on Block 16, Gardner's Addition Replat. I would ask this Commission to recommend approval or denial of the Conditional Use Permit to the City Council.

## **Recommendation**

### **Approve**

Make a POSITIVE RECOMMENDATION for City Council to approve the Conditional Use Permit for a Communications Tower at Block 16, Gardner's Addition Replat, aka 1718 11<sup>th</sup> Street, with the following conditions:

### **Deny**

Make a NEGATIVE RECOMMENDATION to City Council for the Conditional Use Permit for a Communications Tower at Block 16, Gardner's Addition Replat, aka 1718 11<sup>th</sup> Street, for the following reasons:

### **Table**

Table making a recommendation on the Conditional Use Permit for a Communications Tower at Block 16, Gardner's Addition Replat, aka 1718 11<sup>th</sup> Street, for the following reasons:

(Open 6:04)

### **Discussion:**

Annie - application is from 2 months ago when the County applied for a CUP for a communication tower. They did not have a favorable recommendation to move forward to City Council. The main concerns were appearance and compatibility with downtown Gering. City staff has been working with applicant and have come up with good compromises. Ray Richards will give a Power Point to go more into detail.

Annie covered items the Planning Commission should consider when voting. Zoning regulations regarding CUP (Conditional Use Permits), Section 13.3., CUP permits should not be denied b/c "it is what it is". The Commission should look to see if the application meets all conditions under Section 13.3:

## SECTION 13.3: RULES GOVERNING INDIVIDUAL EXCEPTIONS

The Planning Commission shall put its findings in writing which state the extent of compliance with the specific rules governing individual exceptions and the extent that satisfactory provisions and arrangements have been made concerning the following where applicable, and submit them to City Council:

- 13.301            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;
- 13.302            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;
- 13.303            SERVICE: Refuse and service areas, with particular reference to the items in (1) and (2) above;
- 13.304            UTILITIES: Utilities, with references to location, availability, and compatibility;

- 13.305 SCREENING: Screening and buffering with reference to type, dimensions, and character;
- 13.306 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;
- 13.307 YARDS: Required yard and other open space;
- 13.308 COMPATIBILITY: General compatibility with adjacent properties and other property in the district.

Annie:

There are no issues with: Access, Parking, Refuse & Service areas. Utilities are already in the location. There will be an issue with Screening – there will be more details about landscaping. No issue with Signs, Yard and Open Space. Compatibility – is important and needs to be considered.

Ray Richards did the Power Point presentation. Scotts Bluff County communications is 37 years in existence (consolidated) and there are four towers. (1) north side of building is a short tower with 2 antennas that are for the Tri City Roadrunner & Scotts Bluff police station, (2) northeast of Lake Minatare that has equipment to cover events to the eastern side of county, (3) west of Gering 9 miles at the Hubbs Ranch (west of Hubbard's Hill) and (4) tower on top of the Court House (it sends original signals to the Hubbs Ranch & Minatare. The first picture of the PP shows a shot from the top of the Court House out to the Hubbs tower. The other taller tower in the picture was built by Mike Tracey for the radio station 30 years ago. This is the highest point in Scotts Bluff County. It is 9 miles to Hubbs Ranch and there are no broken signals with that narrow band that goes through Mitchell Pass. Ray talked about the Path as it goes west to east. The path goes over the top of monument at 125 feet.

Moving to other areas going east at 7<sup>th</sup> & U Streets there begins interference. The tower would have to be 320 feet in order to have the same resilience. At the County Roads a 460-foot-tall tower would be needed with guide wires. The further away from the site at the Court House, the more challenges and derogation of the signal.

Safety issues to talk about: This tower is the first exit from the basement communications center at Court House Administration building – this is where it all starts. This controls all pages of fire departments in Scotts Bluff & Banner Counties and much more. If another location would be considered, they will have to engineer a way to still reach Banner County. Current tower on the Court House shoots over top of Stage Hill to Banner County.

Ray said this includes hand held radios that are worn on the hip. The police & fire use these when not in their vehicles and coverage is a main concern. The Court House tower is the main tower for Gering Police/Fire and Court House security. Red circle (in the photo) is the coverage area today. If the tower would be moved east, it would take out Ward 1 and Ward 4. The circle of influence is moved. If two towers are needed to keep the existing coverage then, it would mean more engineering; if both are doing the same thing there will be a collision with radio signals and not work well. Ray talked about the other coverage in the slides and hand held radio usage.

The communication center provides service to 62 agencies and need reliable, clear signals for communicating which is done constantly. The new tower has been over engineered. If there is a failure, it will be electrical not structural. The standards are of the highest per the National Standard Institute. This will be a very rugged structure, withstanding 90 mile an hour winds that are constant with no ice, 50 mile an hour winds with 1" of ice on the tower. Current tower is very degraded and if there were constant 30 mile an hour winds, there could be issues. Proposed tower is very safe & strong. The current tower is weak b/c of grounding and the proposed tower will have the current R56 standards (fence, tower & legs will all be grounded). Included is a report from Stephen Klaas with concerns he noted when he reviewed the existing tower.

The National Historical Society had been contacted; they are glad the old tower will be coming off of the top of the Court House.

Compatibility was a concern at the last meeting. The County looked at fencing at Kithau Trucking & the new plaza area and will be using the same style of fencing. Chrissy Land from the Nebraska Forest Service is helping with landscaping design with a variety of bushes & greenery.

Last pictures are the wear & tear of the current tower from the Klass report.

Commissioner Rajewich asked if the tower is going to be to the west of old jail, Ray said yes on the west side. Commissioner Marietta said the height of tower showing at the Court House is 125 feet (not that it would be) and going further east...., Ray said the Monument. Rick Derr said he would address.

Rick Derr from Action Communications responded. The terrain falls 30 feet in elevation. The Monument is like a teeter totter. The elevation is a microwave path, 125 feet is minimum height at the Court House. Commissioner Marietta asked why do you have to go higher, the angle improves by moving east. Rick went back to the path analysis photo. Annie added it would be correct if the spot to the east was the same elevation as the Court House. Commissioner Marietta said it would be dropping off at the same rate as it was moving east. Page 9 – an arbitrary location was chosen to the east, if it were to be moved north 200 feet arbitrarily there could be a higher point. He can't guarantee the path is straight from the Court House. The teeter totter is not equal from east to west, that is where the software told them they needed to be for the microwave path. This site chosen in this analogy is not in a straight line with the Court House. Commissioner Marietta said you picked a location further north & east; you are dealing with more terrain to the north then the actual angle. Rick said you are right; this was only an arbitrary site. A 150-foot tower is needed for public safety.

Annie said the previous application was for a 160-foot tower, there had to be a variance submitted to the Board of Adjustment. The new application submitted was for 150-foot tower and a variance was not required. This height is in line with current zoning code requirements.

Commissioner Allen doesn't understand why we are talking about different locations. It has been clearly stated where the best scenario is to be located. There have been numerous expert opinions provided, documentation and witnesses; why are we having this discussion. Public safety is absolutely the main priority as our jobs as public servants.

Jim Ellison spoke as a private citizen with a business close by the proposed location. From his point of view there is no difference in this application & the prior one other than more aesthetics at ground

level. The looks, aesthetics and compatibility in the downtown area and BCB District is a concern. Can the 150-foot tower grow into a larger area or grow higher to accommodate? Sets a bad precedence for BCB and not beneficial for downtown. Or if it does grow or gets larger, would the County contract with a company to provide services. Does Scotts Bluff County contract right now with the current tower? Ray responded no, they do with Air One and KLOVE radio out of the Hubbs tower, Vista Beam has a small internet link associated with the Lake Minatare tower. They also provide data/voice path for GFL Irrigation which is through the Hubbs Ranch. Is there a contract proposed for a future tower asked Jim Ellison if it was put in another location? Ray said they don't see a need. If a private company would come into the area, provide that service & pay the County money would the County not do it or not?

Rick Derr said they have the 30-page engineering study for this tower, every antenna needed (plus 15% growth potential) is listed in this document. He has not been asked to provide growth potential for a secondary company. Commissioner Rajewich understands Mr. Ellison's concerns; if there was growth potential for that size of tower, would the area be expanded. Rick said for a short answer, yes it could be increased in capacity to serve other counties if they come online. The proposed tower should be able to serve many generations. Annie added that if the tower would be increased for any reason it would have to be re-engineered, require a new building permit and possibly a variance. The process would have to start all over again. Ray said growth anticipated is with neighboring counties – Morrill, Kimball and Box Butte.

Jim asked if they charge other counties for services; Ray said not currently; in the future there could be some considerations; Jim - the County will be making money off of other counties/facilities. Ray said correct, there will be considerations. Mr. Ellison said this was brought up b/c of Page 28, long term benefits to the comp tower, bullet point 2 states 'when County communication expands services, there will be room to grow'. They could be back if they wanted to grow to 300 feet.

Another concern Jim brought up was about an early comment by Commissioner Marietta was that they picked a random location instead of going to straight. If one goes east to find an area to locate the 150-foot restriction would not apply, repeaters could be used to get the signal back where it needs to be. Doing this the aesthetics for Gering won't have to be addressed. In his point of view, they did not do a good job addressing this option. On Page 7 – Line of Site, the Gering Industrial tract could be considered, some of those properties the City owns; this is another option to consider. They have not gone straight east as said tonight.

Commissioner Allen told Mr. Ellison; you keep coming back to 'how it looks' that bothers Commissioner Allen. This is dealing with Police, Fire, Schools and Public Safety, 'When do we get to the point about how something looks is not a top priority?' The County is trying to compromise & work with the Commission, they are putting in greenery. He is asking Jim to explain why is something more important about how it looks instead of public safety. Jim says, it's to find a way that it is compatible for the City and still serve the purpose. Annie said we are not here to second guess the County's decision on the site, we are looking at the application as presented and if it is appropriate for downtown.

Jim said if they are going to consider this site, it should be restricted to public safety, no alternate sites have been looked at that can serve the purpose. Commissioner Allen asked what other sites. Jim respond that they have not used technology to find any through the line of sight. There could be sites out to the east, they haven't looked for them.

Randy Meininger, President of Valley Ambulance Service. He was on the 911 advisory committee task force for the region and this was a high priority then. Multiple sites were looked at; need to consider these things – it has to get through Mitchell Pass and has to get to the Banner County site. It can be moved to the east, but there have not been studies to get high enough over the Wild Cat Hills – it has to shoot through Stage Hill. If a site can be found in the Gering Industrial Tracts and if it can get high enough to get to Banner County and see through the Pass, will also need to follow FAA regulations & see if they will allow – we are within the restrictions of the airport. There still has to be a tower at Court House to get the microwave link out to Hubbs Ranch – there is no other way. They would have to go to the north side of the Court House to erect another tower. If the tower would be located in the Industrial Tracts, another tower would have to be put up to cover Ward 1 & Ward 4 b/c they will not have coverage for the Police & Fire departments. The Firefighters need to make sure they can hit the mayday button if they are in a burning building and need help, they need to know that someone will be able to help them. This is designed around the existing tower at the Court House. The maydays will not work if the tower is moved; the Firefighters lives will be in jeopardy. Yes, other areas were looked at and yes, there still has to be a tower in Gering.

Commissioner Marietta asked if he heard right at the prior meeting, all that was needed is the Fiber from the tower to Court House. Rick recommends both - Fiber & microwave to meet public safety requirements. The microwave will still need to be at the Court House.

Chairman Rechsteiner added this application meets the requirements of Ordinance 1609 (passed in 1998). Annie said yes, the revised application does. From the last meeting the question was on capability & screening within the surrounding community and maintain beauty downtown. All the zoning requirements have been met. Annie added, staff was concerned about this initially with compatibility; everyone understands the importance of public safety and it was never an issue. The new landscape & fence plans complement the new plaza. Karla Nieden-Streeks the Tourism Director is very concerned about the appearance of downtown Gering. She has reviewed this plan and is very comfortable with it. Annie said she can speak for City staff as a whole, that with the condition to follow the plan as proposed tonight. They are all in support of a positive recommendation.

Closed 6:50 pm

Commissioner Hauck Made a **POSITIVE RECOMMENDATION** for City Council to approve the Conditional Use Permit for a Communications Tower at Block 16, Gardner's Addition Replat, aka 1718 11<sup>th</sup> Street. Commissioner Allen seconded.

Chairman Rechsteiner asked for roll call on the motion. Before roll call was done.....

Commissioner Bowman wants to add a condition to the recommendation. Annie said that would be appropriate. Commissioner Bowman stated: they need to comply with the landscaping plan as presented tonight.

Chairman Rechsteiner reread the motion: Commissioner Hauck Made a **POSITIVE RECOMMENDATION** for City Council to approve the Conditional Use Permit for a Communications Tower at Block 16, Gardner's Addition Replat, aka 1718 11<sup>th</sup> Street with the following conditions: to comply with the landscaping plan as presented tonight in the packet. Commissioner Kaufman

seconded the motion on the condition addition. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Rajewich, Rechsteiner and Shimic. "NAY": Marietta. Absent: Erdman.

Approval by Commission to have Chairman Rechsteiner represent at City Council meeting on July 22, 2019. Commissioner Bowman made the motion to approve that Chairman Rechsteiner represent the Planning Commission at City Council meeting on July 22, 2019 and it was seconded by Commissioner Kaufman. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta, Rajewich, Rechsteiner and Shimic. "NAY": None. Absent: Erdman.

City Planner report:

Annie told the Commission she is now City Engineer. It is unknown at this time how the planning duties will be handled; she will be the contact person for now. Comp plan & zoning code are still being worked on. She will get sections of the code out to the volunteers to review in the next week or so. There will be a joint PC & CC meeting in August/September to present the comp plan. Will hand out forms to everyone to complete with written comments; this will take some time to review.

Motion to adjourn was made by Commissioner Rajewich and seconded by Commissioner Marietta. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta, Rajewich, Rechsteiner and Shimic. "NAY": None. Absent: Erdman.

**Note: If a member needs to abstain from voting, the member should communicate this prior to a motion being made.**

**Note: There was dialogue that was not audible for the minutes due to microphones being off, sitting back from the microphones, static in the microphones or individuals not standing at the podium to speak.**

Adjourn 6:58 p.m.

  
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Jeremy Rechsteiner, Chairman

  
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Brenda Bruntz, Secretary