

**THE OFFICIAL PROCEEDINGS OF THE GERING CITY PLANNING COMMISSION**  
**MEETING JUNE 16, 2020**

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 and Miles, Absent: Rajewich, Rechsteiner and Shimid. Also, present Kip Williams, Del Webber, Laura Leggott, other members of the public, City Engineer Annie Folck, 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 was taken while the meeting was open to the attendance of the public.

Vice Chairman Bowman called the meeting to order at 6:01 p.m., roll call was taken and reviewed the Open Meetings Act, 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.

Vice Chairman Bowman asked for a motion to approve or disapprove the minutes from the May 19, 2020 meeting. Commissioner Hauck made the motion to approve the minutes and Commissioner Kaufman seconded. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta and Miles. "NAY": None. Absent: Rajewich, Rechsteiner and Shimid.

Current business:

a. The City of Gering Planning Commission will hold a public hearing to consider an application for a Conditional Use Permit (CUP) on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska.

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

<b>To:</b>	Planning Commission	<b>Date:</b>	June 16, 2020
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	BHC
<b>Subject:</b>	Recommendation & Report – Conditional Use Permit	<b>Property Size:</b>	1.25 Acres
<b>Location:</b>	Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue	<b>#Lots/Parcels:</b>	1
<b>Owner:</b>	Adrian Smith		

**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 on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska.

The project location is an existing storage unit facility. It is currently zoned BHC. The property to the north and east of it is also zoned BHC. The property across the street to the west is zoned BCB, and the property to the south is zoned RM. There is an existing fence that screens the property from the RM zone.

The proposed expansion will consist of eight units, each measuring 50' X 14'. The intent is to rent these units out for RV Storage. According to Section 13.3, the following are the criteria that must be considered for the issuance of a Conditional Use Permit: Access, Parking, Service, Utilities, Screening, Signs, Yards, and Compatibility. With regard to access and parking, very little additional traffic is expected to be generated by this expansion. With regard to service, there will be minimal refuse from the expansion, and so staff is not recommending any dedicated refuse or service areas for the project. The only utility needed will be electrical, which is already available on site. Screening from the RM zone is already in place. No additional signage will be added. The existing sign, which meets all requirements of the City's sign code, may be relocated. The property is currently very similar in appearance to the surrounding properties, and will continue to be similar to properties around it after the proposed expansion is complete.

Staff recommends approval of the Conditional Use Permit.

**Recommendation**

**Approve**

Make a POSITIVE RECOMMENDATION for the City Council to approve the Conditional Use Permit application on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska, with the following conditions:

**Deny**

FAIL TO RECOMMEND to the City Council the Conditional Use Permit application on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska, for the following reasons:

**Table**

Table making a recommendation on the Conditional Use Permit on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska, for the following reasons:

## Discussion:

City Engineer Annie Folck gave the report & recommendation. This is an application for a Conditional Use permit for an existing storage unit facility on Kimball Avenue (bowling alley is just to the north). The aerial shows there is an existing building, a fence screens the property to the south and the plan is to put in another building to the west of the existing building. The aerial shows the long-term plan, right now the application is for Phase 1. They will be putting in 8 units, 50 x 14 and sized so it could be for rented out for RV storage. Applicant feels there is a need for this in the area. After staff review for compatibility, it will not affect utilities (it will only use electrical). The existing sign maybe moved, not a lot will not change just adding another building. After looking at the area and surrounding properties it is similar in appearance with other properties. Staff advises, since there is compatibility with the surrounding properties, there would be no other requirements with what it proposed and recommends approval of the application.

Laura Leggott is the manager for Storage Management and representing for the CUP application. Commissioner Miles asked if they would keep the fencing up; Laura said yes. Commissioner Miles also asked if there was a feasibility study done for the need of storage units. Ms Leggott said they maintain a waiting list for units in a particular size. She said she could fill the list if the units were built today. She drove in the adjacent area, there a many RV's parked on the streets and this is what the storage units would be used to store. Kids playing in the area could easily pop out from behind one of the parked RV's, this is why it would be better to store the RV's in a storage unit than the street – safety. Right now, they are running at less than 2% vacancy in all of the locations (there is a large demand for storage units throughout the valley). The first request from customers is for a unit in Gering. One unit became available yesterday and it was rented out the same day, this is the only vacancy they have had in two months. Commissioner Miles asked what is the construction, Laura said they are a pole barn construction with steel doors, (a 14-foot RV door) that meets state building code, electrical boxes are inside each unit and each have separate breakers. There is no storage for flammables or high voltage and this is monitored. (Public hearing opened at 6:11 p.m.)

Vice Chairman Bowman asked if there was anyone wanting to speak in favor of this application, there was none. Vice Chairman Bowman asked if there was anyone wanting to speak in opposition of this application, there was none. (Public hearing closed at 6:12 p.m.)

Vice Chairman Bowman asked for a motion to approve, deny or table a Conditional Use Permit application on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska. Commissioner Kaufman made a motion for a **POSITIVE RECOMMENDATION** for the City Council to approve the Conditional Use Permit application on Lot 2, Block 2, Greenwalt First Add-Sub of Block 2, otherwise known as 40 S. Kimball Avenue in the City of Gering, Scottsbluff County, Nebraska, with the following conditions: None. Motion was seconded by Commissioner Marietta. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta and Miles. "NAY": None. Absent: Rajewich, Rechsteiner and Shimic.

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b. The City of Gering Planning Commission will hold a public hearing to consider an Ordinance adopting a new zoning code and new zoning map.

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

<b>To:</b>	Planning Commission	<b>Date:</b>	June 16, 2020
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	
<b>Subject:</b>	Recommendation & Report – Zoning Code Adoption	<b>Property Size:</b>	

**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 Ordinance adopting a new zoning code and new zoning map.

The new zoning code has several changes from the previous code. We have reduced the number of zoning districts from 13 to 10. We have added more flexibility into the application of the zoning code by allowing for a plan review process. This plan review process will allow applicants to propose creative, innovative solutions to meet the objectives of the zoning code that may not fit perfectly within the confines of the code.

Some processes have been changed. Our current zoning code requires Conditional Use Permits to be considered by Planning Commission and then go to City Council for final approval. The proposed zoning code, in accordance with state statute, allows Conditional Use Permits to be approved by Planning Commission, with no requirement that they go before City Council. This will make our community more business friendly by making the CUP process quicker and easier, while still allowing for proper oversight by the Planning Commission.

The zoning code has an accompanying map. This map has been updated to reflect the new names of the zones, and the zones which have been combined. Properties that were formerly zoned RM or RML are now all designated as RM, as those zones have been combined. Similarly, properties that were formerly zoned BHC, BTS, or BEC are now all designated as C-3.

The only changes we have made to the map are at the end of 3<sup>rd</sup> Street, just north of the railroad tracks, and along the 10<sup>th</sup> Street Corridor, between the railroad tracks and Country Club Road. The property located at the end of 3<sup>rd</sup> Street is currently zoned heavy manufacturing and is right in the middle of a residential neighborhood. The property is currently vacant and has a high level of soil contamination that is being cleaned up by the EPA. The new zoning map will designate this area as residential, which is more in keeping with the characteristics of the surrounding neighborhood.

On 10<sup>th</sup> Street, there has been a lot of controversy over the zoning in the past, with several non-conforming uses located in that area. The district has historically been zoned MH. A few years ago, in order to bring more properties into conformance, the City created a BHC overlay. This base zoning district with an overlay district approach was implemented in response to some of the land use transitions that were happening along the 10<sup>th</sup> Street Corridor in order to allow for more land use flexibility for property owners within the structure of the current regulations. However, moving

forward, it is the goal of the City to simplify the regulations and the applicable zoning in this area while retaining greater land use flexibility for the property owners. Therefore, the City is proposing to rezone most of this area to ML, Light Industrial and Manufacturing. A portion of the area will be left as MH, Heavy Industrial and Manufacturing, and there will be no BHC overlay.

The new zoning code will remove some of the challenges and restrictions that are present in the current zoning code, and the ML and MH zoning districts allow many more permissible uses than they did previously. There will be no nonconforming uses created by this change.

## **Recommendation**

### **Approve**

Make a POSITIVE RECOMMENDATION for City Council to approve an Ordinance adopting a new zoning code and new zoning map with the following conditions:

### **Deny**

MAKE A NEGATIVE RECOMMENDATION to City Council to approve an Ordinance adopting a new zoning code and new zoning map for the following reasons:

### **Table**

Table making a recommendation on an Ordinance adopting a new zoning code and new zoning code for the following reasons:

### **Discussion:**

City Engineer Annie Folck gave the report & recommendation. This a long & involved document and she will give a brief overview about the main changes and talk about the map. The process began about 2 years ago to clean up the document: gone from 16 Articles to 5, the zoning districts went from 13 to 10 and the main goal was to make the zoning code business friendly, easier to navigate, easier for staff to enforce and clearer. Current zoning code was adopted in 1984 and many things were not addressed in the old code – tiny houses, micro-breweries, things nonexistent at that time.

Some changes have helped to reduce regulatory burden, Conditional Use Permits will not have to go to Council for approval, PC will have the final say. It is allowable by state statute – PC can make those decisions unless the code states otherwise. Changes have also been made for staff giving more flexibility to give relief of certain zoning requirements (within 10% of required performance standards). This means instead of getting a variance from zoning regulations, staff can now have discretion up to 10%.

The old code was confusing, each development had a different zone/overlay associated with it causing many issues. This will be a uniform process no matter how it differs from the zoning making it easier for staff and applicants. In the old code there were districts that were not being utilized by any property in the City, this code was very restrictive. These were (BTS, BEC & BHC) combined into C3. Now there is also C1 & C2.

The new table will be extremely useful and it will be also to anyone wanting to locate in Gering. One can see what is permitted in each zone more easily. Three zones that were combined into C3 and

RM & RML are now combined into RM. Both were very similar, now a duplex can be a CUP in RM; it could not be done in RML. This should make more allowable uses.

North of RR tracks an area was zoned MH with a BHC overlay, this was a temporary solution not an ideal solution. Basically, the properties had two zoning districts that isn't an issue when it comes to uses but for performance standards it caused some problems. MH has an 80-foot height limitation and BHC overlay has a 35-foot height limitation. This zoning needs to be cleaned up. The new zoning code will be able to address this much better. The former industrial districts were more restrictive. Light Industrial can now have more commercial uses. Staff reviewed the areas that needed to be MH and ML. The goal was to make everything along 10<sup>th</sup> Street ML and everything on 7<sup>th</sup> Street MH. There was feedback from property owners after the letters went out and changes were made to the map. Kelly Bean was added to MH (they have no frontage on 10<sup>th</sup> Street) since they had concerns with height limitations. Midwest Auto does have 10<sup>th</sup> Street frontage & they have been there prior; would like to remain as they have been – staff agrees. Tenth Street and to the west is ML. According to the new table, Industrial uses are permitted by right in ML (B&C Steel will remain as permitted uses by right). The 10<sup>th</sup> Street corridor is transitioning.

Another change is the former B&T Metals site. There is just a small area there zoned MH at the end of a residential street, they were completely surrounded by residential (at the end 3-4 lots were zoned heavy industrial). This area is a brownfield area that is currently being cleaned up by EPA (Superfund Site) and want to return it back to residential and make it friendly to that neighborhood. (Public hearing opened at 6:26 p.m.)

Kip Williams has concerns regarding height restriction. They just put a building in that is over 45 feet. Kelly Bean & New Alliance Bean facilities that they have put in are over in height. Why is there a height restriction? What do we do if we need to go over? Annie said typically height restrictions are in place for neighboring properties. If a building is too high (building that are side by side), the building to the north of it won't get much sunlight. The new code will be more permissive on height. The above-mentioned properties are zoned ML or MH. In MH it can be up to 100 feet and ML can be up to 75 feet. Now in this new code, a structure can go above the height but will have to be an equal distance from the property line so it will not negatively impact the neighbor for view of the sun.

Dell Weber, owner of Midwest Auto. In the interest of development, he is happy that PC is going to have flexibility and authority which is good. Behind Kelly Bean there is one city block that he feels should be MH (doesn't affect him). There should be an MH corridor for any development that might have to load a train car (whether it be chemical facilities distribution, whatever). This does not adversely affect him and is in favor of a lot of the things proposed. He does not know how he would feel if he was one of the property owners and the zoning was being changed. What would be the procedure when this goes to Council? Will it be read 3 times? Annie said it will go to Council for their meeting on Monday. Ordinances can be read 3 times unless the 3 readings are waived. It could depend on how much feedback it gotten. Dale said hypothetically speaking, this could be over next Monday. Annie said, legally that is possible. Dale said people should be aware of this. He also said the new code book that contains things like height equals setback, some of the property owners should know about. If my head was in the sand and not advised, I would be pretty hot. This is a caution flag, overall, there is not much opposition. Annie said letters were sent out property owners who would get a change on the map and to everyone within 300 feet. She has had many phone conversations; most have not had an issue if they were remaining as a permitted use.

NOTE: Conversations were not conducted with a microphone by members of the audience, audible was hard to make out for the following.

Vice Chairman Bowman asked how to handle the recommendation to change the zoning of one block. Annie said that will be up to PC if that is what they want to do; make the recommendation with the motion to change the map. That lot is currently vacant and that is why it was not changed. There is not a huge difference in ML & MH (three uses allowed in MH that are not allowed in ML are auto salvage yard, meat packing plant and sale barn) and there is a 25-foot difference in height requirements. Vice Chairman Bowman asked which lot is it on the map; Annie said the purple lot between the dark greens, Dell confirmed. Dell said that seems to be a touch of spot zoning and should be against it but there needs to be flexibility. He said if it is MH it would allow any ML purpose. Annie said no, there are a handful of uses allowable in ML that are not allowable in MH. Dell said if one of those uses came up could a variance be allowed. Annie said no, not a variance, it would have to be a zone change. He said, if a good decision warranted it, it could be done as a governing body, Annie agreed. The property owner does have to sign off of a zone application. Dell asked if Union Pacific owned the lot, Annie said yes. They own the land where the Roundhouse Park is located, the City leases from UP. Kip asked who sets the 100-foot height restriction? Annie said per the current code it is 8 stories and what is a story, commonly it is interpreted as 10 feet. Staff felt 100 foot would be reasonable, unless there is a large lot and it is not adversely affect their neighbors. Kip said in the past years they have gone over that 4 times. To clarify in the definitions, Annie said this is the structural part it would be for the bins not the legs. It is about blocking light. (Public hearing closed at 6:39 p.m.)

Vice Chairman Bowman asked if the Commissioners would like further discussion on the change. Conversations were not conduct with a microphone by members of the audience, audible was not made out.

Vice Chairman Bowman asked for a motion to approve, deny or table an Ordinance adopting a new zoning code and new zoning map. Commissioner Miles made a motion for a POSITIVE RECOMMENDATION for City Council to approve an Ordinance adopting a new zoning code and new zoning map with the following conditions: None. Motion was seconded by Commissioner Kaufman. On roll call vote, the following voted "AYE": Allen, Bowman, Hauck, Kaufman, Marietta and Miles. "NAY": None. Absent: Rajewich, Rechsteiner and Shimic.

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City Engineer report:

Annie has been working on wrapping up the zoning code. Ballfield project will begin June 29<sup>th</sup> for the quad fields. The stage is completed at the downtown Plaza and the ribbon cutting is tomorrow at 3:30 p.m. and invited the PC to attend. Slowly getting back to normal dealing with COVID. Vice Chairman Bowman asked when the landscaping will be completed at the tower. Annie has spoken with Ray Richards; they have all the plants and are waiting on getting the jail crew over there to install. It is graded and there is a drip system under the rock.

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

Adjourn 6:44 p.m.

**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, individuals not standing at the podium to speak or shuffling of papers.



Mary Bowman, Vice Chairman

Jeremy Rechsteiner, Chairman



Brenda Bruntz, Secretary