

**PLANNING COMMISSION MEETING
November 15, 2022**

A regular meeting of the City of Gering Planning Commission was held in open session at 6:00 p.m. in the Gering City Hall Council Chambers at 1025 P Street, Gering, NE, on November 15, 2022. Present were Chairperson Bowman and Commissioners Miles, Shimic, Hauck, Alvizar. Absent were Commissioners Kautz, Holliday, Kaufman and Keener. Also present were Engineering Technician Sergio Rodriguez, City Engineer Annie Folck, and Planning Commission Secretary Carol Martin.

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

Call to Order and Roll Call

Chairperson Bowman called the meeting to order at 6:00 p.m.

1. Pledge of Allegiance

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

Chairperson Bowman 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 October 18, 2022, regular Planning Commission meeting.

Motion by Commissioner Miles to approve the minutes of the October 18, 2022, regular Planning Commission meeting. Second by Commissioner Hauck. There was no discussion. The Clerk called the roll. "AYES": Miles, Shimic, Bowman, Hauck, & Alvizar. "NAYS": None. Abstaining: None. Absent: Kautz, Holliday, Kaufman and Keener. Motion carried.

4. Current Business:

A. Public Hearing for a Conditional Use Permit for a Small Engine Repair Business located at Lot 1D, Block 12, Original Town Addition, aka 1235 11th Street

Chairperson Bowman opened the public hearing for a Conditional Use Permit for Ag Support Services located at Block 1, Schutte Subdivision, Scotts Bluff County, Nebraska at 6:03 pm.

City Engineer Folck stated the City of Gering has received an application for a conditional use permit for a Small Engine Repair Shop to be located in the C-1 Zone. The project site is located at 1135 M Street (see attached map).

The applicant proposes to use the property for small engine repair, such as for UTVs, ATVs, motorcycles, jet skis, etc.

The following criteria are required to be considered by Planning Commission when deciding whether or not to grant the CUP:

Access/Fire Safety: The property has access off of 11th Street.

Off Street Parking and Loading Areas: Customers would park in the existing driveway or may utilize the alley to the south of the building for loading/unloading.

Refuse and Service Areas: There are dumpsters available in the alleyway adjacent to the property. All batteries, used oil, and other automotive waste will be properly disposed of. Currently the applicant takes all such waste to O'Reilly Auto Parts.

Utilities: The property has access to all utilities. There is a floor drain in the bathroom, but no other floor drains in the building. Equipment that needs to be washed before it is worked on will be taken to a commercial car wash and cleaned.

Screening and Buffering: There is no existing screening or buffering on the site.

Signs: A 2'X4' banner is to be hung on the building above the door.

Required Yards and Open Spaces: None in the C-1 Zone

General Compatibility: The property is bordered by commercial uses on the north and east (Gering Fire Department) and residential uses to the west and south. The proposed use could be compatible with surrounding uses as long as no equipment is stored outside without being properly screened.

Staff recommends approval of the conditional use permit with the following conditions:

1. All repair work will be conducted inside of the building.
2. Any equipment parked on site will be kept inside of the building or inside of a screened area to the side or rear of the building. The screen shall be opaque and 6' in height and should screen all views of the equipment from surrounding properties and ROW. No equipment may be parked in the City's ROW or in the front yard setback of the property.
3. All equipment washing shall be done at a commercial car wash. No equipment washing shall be done at this site.
4. All automotive waste (batteries, tires, used oil) shall be disposed of properly, meeting all local and state requirements.
5. Plans shall be submitted to the Nebraska State Fire Marshal office and the business inspected by the Nebraska State Fire Marshal.
6. The applicant shall obtain a Certificate of Occupancy from the City of Gering, which shall include an inspection by the City's building official and fire chief.
7. A Knox Box shall be installed at the owner's expense to give first responders access to the building in the event of an emergency.

Chairperson Bowman asked if there were any questions.

Commissioner Hauck asked if there would be proper ventilation in the winter when they have engines

running. They stated that they will have an exhaust system that reduces down to the exhaust pipe size to get rid of the toxic fumes. Engineer Folck also said that the Fire Marshall will be looking for proper ventilation and safety code issues.

Commissioner Miles inquired about the building directly to the north of this location and asked what it is being used for. Engineer Folck said it belongs to the Fire Department and they have some pickups and smaller equipment in there.

With no further comments, the public hearing was closed at 6:14 pm. Chairperson Bowman entertained a motion regarding a PC Resolution 11-22-1, a resolution to grant a Conditional Use Permit for a Small Engine Repair Business located at Lot 1D, Block 12, Original Town Addition, aka 1235 11th Street.

Motion by Commissioner Alvizar to recommend approval of the Conditional Use Permit for a Small Engine Repair at Lot 1D, Block 12, Original Town Addition, aka 1235 11th Street with the conditions. Seconded by Commissioner Miles. There was no discussion. The Clerk called the roll. "AYES": Miles, Shimic, Bowman, Hauck, Alvizar. "NAYS": None. Abstaining: None. Absent: Kautz, Holliday, Kaufman and Keener. Motion carried.

B. Consider an Ordinance and Rules Regarding Use of the City of Gering's Right-of-Way

City Engineer Folck stated the City's current code of ordinances prohibits all obstructions to be placed in the City's Right-of-Way. This includes downtown amenities such as park benches, planters, sandwich board signs, etc. The proposed ordinance and corresponding rules and regulations would allow for such amenities to be placed in the City's Right-of-Way provided that they meet all of the requirements specified therein. For fixtures that are readily removable, no permit would be required. If a property owner would like to have a sidewalk café where food and drinks are served, they will need a permit and will be required to provide proof of insurance to the City. If any property owner wants to install permanent fixtures (fences, landscape areas, fixed tables or benches), there is a process outlined to do so. The property owner would have to enter into a license agreement with the City. This allows the City to have greater oversight of what is installed and ensure that all ADA and safety requirements are addressed.

Engineer Folck asked if anyone had any questions.

Commissioner Miles stated that retail merchandise was not addressed about clothes racks on sidewalks or displays on merchandise and asked if that is covered somewhere else. Commissioner Miles stated that sidewalk sales would entice people to look at the sidewalks. Engineer Folck said that the reason that is not addressed here is because this is based on what was adopted in Scottsbluff and they only have sidewalk sales once a year and got a special event permit for that. Engineer Folck indicated that might be something to clarify in this ordinance and it might fall under sidewalk displays and just add retail displays, park benches, and decorative plants. Engineer Folck said that one thing that you need to be careful of with retail displays is depending on the type of store and type of retail, sometimes they look really nice, sometimes there may be a pawn shop and it could look like junk also.

Commissioner Hauck asked if there is a right-of-way in residential and if someone wanted to sell lemonade on the side walk, do they need a permit or to have a garage sale. Engineer Folck said that our code book does allow for garage sales saying that it has to be one day event. Lemonade stands were not addressed.

Engineer Folck said there has been questions raised if they could put up a kiosk with vending machines and that is commercial use and not allowed in residential zones. Engineer Folck said that lemonade stands are technically not allowed but it won't be enforced.

Chairperson Bowman asked where the \$1 million dollars per person per occurrence come from and that seems like a lot. Engineer Folck said that is typical liability insurance amount for a business and that is low for a business. Most restaurants will have more than that for liability insurance. Engineer Folck said they do not have to have that money on hand but they have to be covered for that amount.

Chairperson Bowman also asked about a sidewalk café and if there is a different requirement with a liquor license if they want to serve alcohol out there. Engineer Folck said the liquor license requirement is going to be outside of this and that is the reason why we wanted the permanent fixtures. For a liquor license they require at least a 4-foot-high fence or higher and it does have to be a permanent fixture. Engineer Folck said that we do not get into what size of fence they need and that is all through the Liquor Control Commission. We just need to make sure that the placement of that fence is not making it difficult for people walking around on the sidewalk. Chairperson Bowman wanted to confirm that if it is a temporary outside eating space then they could not have liquor there. Engineer Folck they could if their liquor license was amended to include those areas.

Commissioner Hauck inquired about walking sidewalk signs and wanted clarification on that. Engineer Folck said those are not allowed and at the time we adopted this, people were approaching us about walking sandwich board signs and sign flippers. The Police Department had strong views on both and anything that was there to really grab your attention and take it away from the roadway, they were not comfortable with it.

Chairperson Bowman asked if there were any other questions.

Chairperson Bowman entertained a motion for a recommendation to Council pertaining to Rules Regarding Use of the City of Gering's Right-of-Way Ordinance.

Motion by Commissioner Hauck to approve an Ordinance and Rules Regarding Use of the City of Gering's Right-of-Way. Seconded by Commissioner Alvizar. There was no discussion. The Clerk called the roll. "AYES": Miles, Shimic, Bowman, Hauck, Alvizar. "NAYS": None. Abstaining: None. Absent: Kautz, Holliday, Kaufman and Keener. Motion carried.

6. City Engineer report

Engineer Folck said there is a lot of business coming up. In our next meeting on December 6th there will be another Conditional Use Permit, a TIF application for B & C Steel and a Blight Study. We are continuing to work with Aulick's and we may meet in January regarding a planned development for shipping container homes that they are currently working on.

We are also at the end of the year and the terms for Jody, Phil and Cathy's are expiring. Phil was finishing the unexpired term for Jeff Alexandre. Jody Miles said he would continue and we will check with Cathy and see if she would like to serve another term. The new Mayor, Kent Ewing, will appoint them.

Alvizar and Taylor. "NAYS": None. Absent: Kautz, Palm and Kaufman. Abstaining: None. Motion carried.

City Engineer Report

Engineer Folck stated because of the weather, the Planning Commission workshop that was going to be held on February 22, 2023 has been postponed to March 15, 2023.

Engineer Folck also welcomed Allen Taylor to Planning Commission. Allen was originally appointed as an alternate. Now that Mary Bowman is leaving, he will be coming to all the meetings and if anyone knows of someone else that would be an alternate to get in contact with the city.

Engineer Folck presented Mary Bowman with a plaque for her years of service on the Planning Commission.

Commissioner Shimic asked if a person had to be from a specific zone to fill the vacancy. Engineer Folck said it could be anywhere in the city limits and we can have two members from our extra territorial zoning jurisdiction. It is outside the city limits but still within the city jurisdiction. We have those two members so the next one filling the vacancy would need to be in the city limits.

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

The meeting adjourned at 6:31 p.m.



Mary Bowman, Chairwoman

ATTEST:



Carol Martin, Secretary