



Hall County Regional Planning Commission

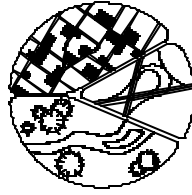
Wednesday, September 05, 2007
Regular Meeting

Item E1

Meeting Minutes - August 1, 2007

Minutes of the August 1, 2007 meeting.

Staff Contact: Chad Nabity



THE REGIONAL PLANNING COMMISSION OF HALL COUNTY, GRAND ISLAND,
WOOD RIVER AND THE VILLAGES OF ALDA, CAIRO, AND DONIPHAN, NEBRASKA

Minutes
for
August 1, 2007

The meeting of the Regional Planning Commission was held Wednesday, August 1, 2007, in the Council Chamber - City Hall - Grand Island, Nebraska. Notice of this meeting appeared in the "Grand Island Independent" July 21, 2007.

Present:	Pat O'Neill	Leslie Ruge
	Debra Reynolds	Mark Haskins
	Don Snodgrass	Scott Eriksen
	Karen Bredthauer	Dianne Miller
	Bill Hayes	Jaye Monter
	Lisa Heineman	
Absent:	John Amick	
Other:	Mitch Nickerson, Steve Riehle, Wesley Nespor	
Staff:	Chad Nabity, Barbara Quandt	
Press:		

1. Call to order.

Chairman O'Neill called the meeting to order at 6:05 p.m. He stated that this was a public meeting subject to the open meetings laws of the State of Nebraska. He noted that the requirements for an open meeting were posted on the wall in the room and easily accessible to anyone who may be interested in reading them.

2. Minutes of July 11, 2007 meeting.

A motion was made by Haskins, and seconded by Reynolds to approve the Minutes of the July 11, 2007 meeting as presented.

The motion carried with 7 members present voting in favor (O'Neill, Ruge, Reynolds, Bredthauer, Haskins, Bredthauer, Snodgrass) and 4 members present abstaining (Miller, Monter, Hayes, Heineman). Motion carried.

3. Request time to speak.

Marlan Ferguson and Bob Niemann requested a time to speak concerning Agenda Item #4. Greg Baxter requested a time to speak concerning Agenda Items #6 and #7.

4. Public Hearing – Concerning a Blight/Substandard Study for Redevelopment Area No. 7 as prepared by Hanna:Keelan. The 498.5 acres are located primarily one-half mile east of U.S. Highway 281 and one-half mile west of South Locust Street between Schimmer Drive and Wildwood Drive referred to as Area No. 7. (C-24-2007GI)

This Public Hearing was held following the Consent Agenda (Items #5, #6 and #7).

Chairman O'Neill opened the above mentioned Public Hearing. Nabity reported that the Grand Island Area Economic Development Corporation (GIAEDC) commissioned a Blight/Substandard Study for Redevelopment Area No. 7 to be prepared by Hanna:Keelan Associates of Lincoln Nebraska. This study area includes 498.5 acres referred to as CRA Area #7. This area is located primarily one-half mile east of U.S. Highway 281 and one-half mile west of South Locust Street between Schimmer Drive and Wildwood Drive. Council referred the study to the Planning Commission for its review and recommendation at their meeting on July 10, 2007. If the Planning Commission does not make a recommendation within 30 days, Council can proceed with a decision on the declaration without recommendation from Planning Commission. Nabity stated that the Statutory authority and direction to the Planning Commission is referenced in Section 18-2109 – Redevelopment plan; preparation; requirements. Nabity presented a flow chart of the blight declaration process. He pointed out that, at this time, the Planning Commission and Council are only concerned with determining if the property is blighted and substandard. He presented an overview of the differences between the blight and substandard declaration and the redevelopment plan. If a declaration as blighted and substandard is made by Council, then the Community Redevelopment Authority (CRA) can consider appropriate redevelopment plans. The redevelopment plans must also be reviewed by the Planning Commission, and approved by Council, prior to final approval. Nabity stated that it is appropriate, in conducting its review and considering its recommendation regarding the substandard and blighted designation, for the planning commission to: (1) review the study; (2) take testimony from interested parties; (3) make findings of fact, and; (4)

include those findings of fact as part of its recommendation to Council. To determine the terms blighted and substandard, Nabity referred to State Statutes Section 18-2103 – Terms, defined. He discussed the two principal structures, as well as the remaining 22 structures included in the study, as shown on pictures from the Hall County Assessor's Office. Nabity stated that the majority of the subject property was annexed by the City of Grand Island in March of 2007. The annexation was at the request of the GIAEDC in anticipation of industrial development on this property. Approximately ten acres north of Schimmer Drive and 40 acres at the SW corner of the property were not annexed by the City. He explained that areas outside of the City limits may be included within a study but redevelopment of those properties using TIF, or other CRA funds, may not be considered until after annexation.

Based on the following excerpt from the Blight Study as presented by the GIAEDC and Hanna:Keelan Associates:

While it may be concluded the mere presence of a majority of the stated Factors may be sufficient to make a finding of blighted and substandard, this evaluation was made on the basis that existing Blighted and Substandard Factors must be present to an extent which would lead reasonable persons to conclude public intervention is appropriate or necessary to assist with any development or redevelopment activities. Secondly, the distribution of Blighted and Substandard Factors throughout the Redevelopment Area must be reasonably distributed so basically good areas are not arbitrarily found to be blighted simply because of proximity to areas which are blighted. (Page 4, Blight and Substandard Study and General Redevelopment Plan as prepared for the Grand Island Area EDC by Hanna:Keelan Associates, P.C.)

Planning Commission staff is recommending consideration of the following questions as a starting point in the analysis of this Study and in making a recommendation on the question of whether the property in question is blighted and substandard.

Recommend Questions for Planning Commission

- Does this property meet the statutory requirements to be considered blighted and substandard?
- Are the blighted and substandard factors distributed throughout the Redevelopment Area, so basically good areas are not arbitrarily found to be substandard and blighted simply because of proximity to areas which are substandard and blighted?
- Is public intervention appropriate and/or necessary for the redevelopment of the area?
- Is this property different than other properties on the urban fringe of the community?

Findings of fact must be based on the study and testimony presented including all written material and staff reports. The recommendation must be based on the declaration, not based on any proposed uses of the site.

If the Regional Planning Commission concludes that the area in question meets the definition of blighted and substandard and supports such conclusion with findings of fact they should move to recommend **approval** of the declaration as blighted and substandard based on the facts presented and identified at this meeting.

If the Regional Planning Commission concludes that the area in question does not meet the definition of blighted and substandard and supports such conclusions with findings of fact, they should move to recommend **denial** of the declaration as blighted and substandard based on the facts identified.

Prior to opening discussion, O'Neill reiterated that a redevelopment plan is not a part of the consideration at this hearing. He then asked for questions from commissioners.

Heineman stated that she was familiar with the legislation that allows for the declaration of areas as blighted and substandard. However, she was unable to find information on how to apply the reasonable distribution of deficiencies test in that legislation. Nabity responded stating that you would know it (blighted and substandard) when you see it. Wes Nespor, with the Grand Island City Attorney's office, responded to Heineman's question stating that this comes down through case law where it has been established that it is necessary to show that parcels that are not themselves declared blighted or substandard can be included in an area if they are necessary for the purpose of alleviating the blighted and substandard issues on the other parcels. The whole concept of having them distributed throughout is just another way of stating that if there is basically a good parcel mixed in the entire project, it is there because it is necessary to alleviate blighted and substandard conditions in the parcels that are not good. Heineman stated that the opposite would then apply as well. If the area adds a portion, because it does have blight and substandard, it cannot be pulled in just to make the area in question declared blighted and substandard. Nespor replied that applies if you are amending a blighted and substandard area. If one is starting from scratch, you would consider all of those questions from the beginning. Heineman had a second question regarding the portion of legislation, which reads "in its present use". She questioned the current use, since the City zoned this property M2 when it was annexed. Is its current use manufacturing, or is it agriculture? Nabity answered that its current use is agriculture and its expected use is manufacturing. He stated that it is not unusual for the City to zone property that is anticipated for other uses appropriately so that it is ready to be developed prior to the actual development occurring. Heineman contended that, when it doesn't say its intended, or expected, use and it just says its current use, then we have to take that to mean the way it is presently being used. Nespor agreed that is a fair reading of that statement, but even in the present use, we need to look at the various conditions. Are there buildings that are dilapidated, or are of a certain age that they fall within one of those categories? Heineman stated that she

was referring specifically to the roads as to whether the roads were adequate for the current use. She stated that this Study makes the point that the roads would not be adequate for heavy manufacturing, but she contends that we are supposed to make a consideration based on its present use. Nespor agreed that, strictly speaking, she is most likely correct; however, this property is in an area that has been annexed and zoned M2. He continued stating that it is just a matter of time before this area is developed since it has been annexed. He referred to a broader aspect by considering if it is in the best interest of the City to address that issue at this point. He suggested that it was something that could be addressed when findings and facts are being discussed.

Reynolds questioned how each of the 24 structures could be considered individual parcels. Nabity referred the question to Marlan Ferguson since the Study came from the EDC. Ferguson then referenced page 16 of the Study; specifically, the section entitled "Parcel-by-Parcel Field Survey". He stated that Hanna:Keelan is a well respected firm who has completed five studies in this community. Ferguson defers to Hanna:Keelan, since they stand by this Study and this report. They explained their reasoning in the paragraph that Ferguson referred to on page 16. His opinion is that there are 26 structures on this property that are considered blighted and substandard. Nabity stated that, in listening to the paragraph that was read, the survey referred to was not a land survey. They were referring to a site condition survey, where they drove out and looked at the site, as opposed to a legal land survey. Reynolds noted that in the Study, it found that the barn structures were determined to be substandard due to substandard porches, steps, fire escapes, without water and extreme age. She cited page 16 of the Study which stated that "the system for classifying buildings be based on established evaluation standards and criteria". Reynolds contends that the criteria are not standard for this type of structure. O'Neill answered by referring to page 17 of the Study regarding dilapidated or deteriorated structures. They examine structural components as primary components and then secondary components as building systems. Reynolds had the opinion that the Study measured the barns more as a residence, rather than a farm structure. Heineman questioned the standard with which they were doing the comparison. She contends that a chicken coop is compared in this Study as though it does not have adequate fire systems, as are the two houses that are on both farmsteads. A discussion followed regarding the buildings located on the southern farmstead, and questions raised and debated, as to the standards by which they were compared. Ferguson discussed the language, which described the standards of comparison. He also pointed out that the infrastructure needs to be a consideration of determining the blight and substandard designation. State statute does not differentiate between residential buildings and other buildings located in other places. He noted that there are enough factors of dilapidation and blight, plus lack of infrastructure, to designate this area as blighted and substandard. Reynolds asked another question regarding information contained on

page 32, under number three, "Existence of Debris". She quoted, "These abandoned structures and adjacent areas with debris harbor pests and vermin, as well as being a threat to the health, safety and welfare of trespassers." She stated that she understood "attractive nuisance", but farms are not usually considered attractive nuisances. She also expressed agreement with Heineman regarding the condition of the rural roads needing to be hard surfaced for the municipal infrastructure and utility systems. Also, she did not think that the ethanol production facilities should have been mentioned, or used as a basis for criteria for finding the infrastructure and utility systems lacking.

Miller commented that perhaps the ethanol business should not have been mentioned at this point. However, the area will be bought into by other businesses and will need adequate infrastructure in order for those businesses to be developed. She stated that the question before the Commission is whether they found it blighted and substandard. Miller questioned whether that area would be considered beyond private enterprise ability to deal with effectively due to infrastructure requirements. O'Neill's opinion was that the existing surrounding land uses need to be considered, such as the power plant and the industrial park to the west. He suggested that the big picture should be considered by not just looking at what is actually there now, but look ahead to the potential for redevelopment. Miller asked Nabity to explain the potential positive, as well as the potential negative ramifications, if RPC accepts the Blight & Substandard Study. Nabity stated that the positive ramification would be that sewer and water could be extended through the property for redevelopment and potentially be financed with tax increment financing. The possible detriment would be that it could potentially open other areas on the urban fringe for the blight & substandard designation based on this same criteria.

Marlan Ferguson, President GIAEDC, responded to the possible negative impact of accepting the Study mentioned by Nabity before proceeding with his testimony. He stated that this property is what should be considered at this time since it has been annexed by the City Of Grand Island.

Ferguson provided a written statement, which he outlined for the RPC. This statement is copied below.



P.O. BOX 1151

GRAND ISLAND, NE 68802-1151

August 1, 2007

To: Board of the Regional Planning Commission

From: Marlan Ferguson, President GIAEDC

The Nebraska Legislature passed the Nebraska Community Development Law to allow certain areas of the communities to be designated Blighted and Substandard thereby allowing a redevelopment plan to commence. A redevelopment plan can among other things include the use of tax increment financing (TIF). This is an invaluable tool which has been used multiple times in communities across Nebraska and the nation. As an example Kearney has approved 17 TIF projects, Hastings has 47 projects and Grand Island which currently has 8 projects. As you know Wood River has designated a large area Blighted and Substandard for the benefit of increased development.

Recruitment of businesses and industries is becoming extremely competitive and all the tools economic developers can have at their disposal is critical. The potential for TIF financing is attractive to potential new job creation and gives us another tool in the competition for economic development. It expedites the development of an area which is good for the tax base in the long run.

The Grand Island Area Economic Development Corporation has invested heavily in developing the Platte Valley Industrial Park including acquiring additional property titled PVIP II. This includes 320 acres with large tracts of land available. This acquisition was made in response to a potential project that would have taken 170 acres for a 1,000,000 square foot Distribution Center employing over 600 people. One of the first items they asked for was the availability of TIF and they continued to ask if the City would make that property eligible for TIF, so it was abundantly clear the need for TIF was paramount. Since then we have had numerous inquiries on this property and the request for TIF has been asked each time. We currently have two projects interested in locating in this area and one has indicated they would come.

The City has now annexed most of the area including an area not owned by the EDC but is a projected site for an ethanol plant, for which they too have asked about the availability of TIF. Most of the area has also been zoned to M-2 making this an excellent location for development. However there remains the need to upgrade the roads, improve surface drainage and extend the water and sewer system. The GIAEDC decided to have a "Blight and Substandard" study completed as the annexation and rezoning were taking place in order to plan for the future development of the area.

The study was completed by Hanna:Keelan Associates, P.C. from Lincoln, Ne, the same firm who completed previous studies for the City. The purpose of this Blight and Substandard Determination Study is to apply the criteria set forth in the Nebraska Community Development Law, Section 18-203, to the designated Redevelopment Area.

It is the opinion of the **CONSULTANT**, that the findings of this Blight and Substandard Determination Study warrant designating the Redevelopment Area as "substandard" and "blighted."

The GIAEDC Board encourages the Planning Commission to recommend approval of the designation to the City Council.

Bob Niemann, a former member of the Regional Planning Commission, spoke before the RPC. He encouraged members to recommend the approval of the declaration of this area as blighted and substandard. He stated that it would be in the best interest of the City Of Grand Island since business recruitment is very competitive.

Greg Baxter spoke before the RPC. Baxter commended Heineman and Reynolds for their statements as fellow advocates for agriculture. He does

not generally support municipal expansion on agricultural land, but in this case he supports this effort.

Eriksen stated that, even though he did not necessarily agree with the subjectivity that exists with the Statutory criteria pertaining to the blighted and substandard factors, clearly the professional opinion of Hanna:Keelan supports the designation. Since the experts support the finding, Eriksen stated that he will support it as well.

Hayes questioned what percentage of Grand Island would be declared blighted and substandard if both Studies were to be approved. Nabity stated that with the current areas and both this area and area 6 that will likely be before the planning commission in September 16.66% of the City would be considered blighted and substandard.

Haskins questioned Ferguson regarding tax increment financing in the consideration of determining whether public intervention was appropriate, or necessary, for the redevelopment of this area. Ferguson responded that because the City of Grand Island annexed this property, the City has one year to extend sewer and water to this area. He stated that while tax increment financing is the primary public intervention, it is not the only public intervention. Public intervention is absolutely necessary to get the needed infrastructure in place in order to have it ready for development.

Reynolds stated that, in her opinion the way the law is written now, the legislature should have looked at it more carefully. A brief discussion followed regarding the merits of TIF funds, both pro and con, which ultimately encourages community competition for the location of industry. Haskins stated that in the November election, Amendment Six put a vote to the people to actually use TIF funds for a wider array of projects, but it was soundly defeated. O'Neill pointed out that the Amendment contained other items as well. Hayes stated that he thinks that TIF funds have a purpose in many areas, and if it takes TIF funding to get businesses here to provide jobs, it is well worth it. He cited the Wal-Mart Distribution Center in North Platte, which used TIF funds, resulting in a great benefit to their community. Heineman agreed with everyone that industry is needed in Grand Island. She stated that she has a dilemma in her mind when she reads the Study. She is unable to see a predominance of dilapidated buildings in the subject area, or that there are substandard issues that meet the criteria as set forth by the legislature. Her dilemma is that the voters of the state of Nebraska were asked specifically if it would be appropriate to revise these statutes so that TIF funding could be used for areas other than substandard and dilapidated areas. The voters, who are represented by this body, declined those revisions. Heineman's opinion is, therefore, that it is the responsibility of this body to follow the dictates of what the legislature set forth as criteria, rather than follow the lead of the Hanna:Keelan Study, no matter what the consequences of that decision may be. Ferguson responded that the state statutes may have many

interpretations. However, in his opinion, state statutes clearly state that there only needs to be one of those twelve issues identified. The Study identified eight out of the twelve issues. Heineman disagreed with the interpretation, stating that there is an overlying sentence over the entire law, which states that "substandard areas shall meet an area in which there is a predominance of buildings or improvements in which" and then they list different areas in which you just need to have one of those pertain. Also, in addition, they list other criteria. Going down to the second paragraph, where it says the blighted area shall mean an area where there are a substantial number of deteriorated structures. She stated that you actually have to fulfill the whole thing, not just find one dilapidated building and therefore the entire area that you assign to it is considered substandard. Ferguson disagrees, but states that he is not an attorney. He again defers to the opinion of Hanna:Keelan. Changes to legislation to help in this area have been discussed but no changes have been enacted yet. Reynolds made statement pointing out that in looking at this area, as opposed to other areas, this looks like a typical farmstead in her opinion. Ferguson responded that it may be true, but in this definition and Study, it is considered a dilapidated farmstead. From tax roll information, there is no value assigned to these buildings, which clearly makes them dilapidated. In this case, this property is on the urban fringe and has been annexed and zoned M2, which is much different than most farmsteads in Hall County. O'Neill spoke concerning the definition of "blighted" on page 5, Section 18.2103. He stated that according to this definition, any combination of such factors under "(a)" and "at least one of the following conditions" under "(b)" would suffice. It is his opinion, according to this definition, that it is not necessary to find that all of these factors exist; but, that any combination is all that is required.

Snodgrass commented on the approval by the RPC of housing developments and infrastructure expansions. He noted the large number of homes currently for sale in our area. A discussion followed regarding the number and price ranges of the homes available. Snodgrass continued his comments by stating that if we have these houses and housing developments available, we need people with jobs to purchase those homes. It is his opinion that for the good of City, and the good of the community, this is a situation that we need to approve.

O'Neill had a question for Steve Riehle, Public Works Director, regarding the costs involved with adding sewer and water to the annexed area being discussed. According to Riehle, the trunk sewer line costs would be six to eight million dollars, a half a million dollars for the lift station and two million dollars for the water lines.

Ruge commented on the time of year the Study was prepared. He stated that obviously the buildings would look different today than they did in January when the photos were taken. There is some improvement being done that does make it look better. His assumption is that Hanna:Keelan

physically inspected the buildings to determine the condition. He noted that there was a building on the south farmstead that is totally dilapidated and needs to be destroyed as well as some improvements that need to be done in that area for safety. He also noted that from the view from the street on the north farmstead, it is harder to see any deterioration that may be there. There is definitely an age factor involved for these buildings. However, improvements are currently being made.

Reynolds had one question on whether it would be beyond private enterprise ability to do this effectively.

Nespor noted the various portions of this hearing that need to be made a part of this public record. They are the slides and power point presentation, the Blighted and Substandard Study, and the written testimony of Marlan Ferguson.

O'Neill commented on the costs of bringing sewer and water to this property. He stated that if private enterprise had to spend eight million dollars to extend the trunk line to this area, it is not likely to be developed. It is his opinion that this is a huge issue.

Chairman O'Neill closed the public meeting.

A motion was made by Hayes, and seconded by Miller, to recommend the approval of the declaration of the area under consideration as blighted and substandard based on the facts presented and identified.

Chairman O'Neill stated that the findings of fact needed to be identified. These findings of fact will include the presentation; the Blight/Substandard Study presented by Hanna:Keelan, with the exception of Amendment B, the Redevelopment Plan; the written testimony by the Grand Island Economic Development Corporation; the buildings located on the property identified as aged/dilapidated; the age of structures are at least 40 years old ; property is different from other properties because of location on the urban fringe of the community in that it is directly adjacent to an industrial area on the west, directly adjacent to a power plant on the south with high voltage lines, as well as, close to rail lines, which would be good for manufacturing growth, but possibly detrimental for other development; location of major commercial arterial roads between, but not on, property; and, public intervention is deemed appropriate for the redevelopment of the area due to inadequate infrastructure, specifically sewer and water, and the high cost of making that available.

A roll call vote was taken and the motion passed with 9 members present (Ruge, Hayes, Monter, Haskins, Eriksen, Bredthauer, Snodgrass) voting in favor, and 2 members present (Reynolds, Heineman) voting against. Motion carried.

The Consent Agenda, consisting of Agenda Items #5, #6 and #7, was considered by the Commission before Agenda Item #4.

CONSENT AGENDA

- 5. Preliminary & Final Plat** - Knecht Second Subdivision located east of Highway 11, between Cedarview Road and Burmood Road, Hall County, Nebraska (2 lots)
- 6. Preliminary Plat** – Westgate Industrial Park Subdivision located south of Old Potash Highway and north of Westgate Road in the city of Grand Island, Hall County, Nebraska.
- 7. Final Plat** – Westgate Industrial Park Second Subdivision located south of Old Potash Highway and north of Westgate Road in the city of Grand Island, Hall County, Nebraska.

Chairman O'Neill asked for discussion regarding the Consent Agenda. Ruge raised a question referring to Agenda Item #7, Westgate Industrial Park Second Subdivision. He questioned the length of a street. Naby stated that there is a provision for a graded gravel drive that will cross the property at North Road providing emergency access, which is preferred by the Fire Department. The easement is in place. The Utilities Department has received that easement dedicating that as an access easement and as a utility easement for that area between the end of Silver Road and North Road. A water line will also be tied in so that the water is moved into the development from the very beginning.

A motion was made by Ruge, and seconded by Miller, to recommend approval of the Consent Agenda as presented.

A roll call vote was taken and the motion passed with 11 members present (Miller, O'Neill, Ruge, Hayes, Reynolds, Monter, Haskins, Eriksen, Bredthauer, Heineman, Snodgrass).

8. Planning Director's Report

Naby discussed that he had attended a meeting regarding the new unofficial flood maps. He stated that they are much better than the maps that he saw last year. He anticipates receiving copies of the maps by the end of September, with expectation of adoption of these maps next year. Naby reported that he expects City Council to forward the Blight Study for Area 6 to RPC. This is the Study on the older areas of Grand Island. Naby stated that we are seeking nominations for the Community Beautification Awards. We would like to present these awards at the October RPC meeting in conjunction with the 40th Anniversary of the Hall County RPC. Naby also reported that the Hazard Mitigation Plans will be coming forward in the next few months.

9. Next meeting is September 5, 2007

10. Adjourn

Chairman O'Neill adjourned the meeting at 7:25 p.m.

Leslie Ruge, Secretary

by Barbara Quandt