

City of Scottsbluff, Nebraska

Monday, November 20, 2017

Regular Meeting

Item Resolut.1

Council to consider a Resolution to declare that real estate located within the general vicinity Northeast of Burlington Northern Santa Fe Railroad, South of Highway 26, and W. of Ave I in the NW portion of the community be declared to be blighted and substandard and in need of redevelopment.

Staff Contact: Nathan Johnson, City Manager

RESOLUTION NO. 17-11-02

BE IT RESOLVED by the Mayor and City Council of the City of Scottsbluff, Nebraska:

RECITALS:

- a. It is necessary, desirable, advisable and in the best interest of the City of Scottsbluff, Nebraska (the "City"), for the City to undertake and carry out redevelopment projects in certain areas of the City that are determined to be blighted and substandard and in need of redevelopment;
- b. The Community Development Law, Neb.Rev.Stat. §18-2101 et.seq., as amended, (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects;
- c. Section 18-2109 of the Act requires that, prior to the preparation of a redevelopment plan for a redevelopment project, the Mayor and City Council shall, by resolution, declare the area to be blighted and substandard;
- d. At its regular City Council meeting on November 6, 2017, the Mayor and the City Council of the City held a public hearing (the "Public Hearing") to determine whether the area more fully described on Attachment 1 (the "Redevelopment Area") should be declared blighted and substandard, and in need of redevelopment, as required by the Act;
- e. The City published and mailed notices of the Public Hearing regarding the consideration of declaring property to be blighted and substandard pursuant to §18-2115 of the Act;
- f. The Public Hearing was conducted and all interested parties were afforded a reasonable opportunity to express their views respecting the declaration of the Redevelopment Areas blighted and substandard and in need of redevelopment, and the Mayor and City Council reviewed and discussed a blight and substandard determination analysis as per Attachment 2 (the "Blight Study") prepared by M.C. Schaff & Associates;
- g. The Blight Study was forwarded to the Planning Commission of the City for its review and recommendation and the Mayor and City Council reviewed the recommendations received from the Planning Commission; and
- h. The Mayor and City Council desire to determine whether the Redevelopment Area is blighted and substandard and in need of redevelopment in accordance with the Act.

BE IT RESOLVED THAT:

1. The Redevelopment Area is declared to be substandard and in need of redevelopment pursuant to the Act, in that conditions now exist in the Redevelopment Area for meeting the criteria set forth in §18-2103(10) of the Act, as described and set forth in the Blight Study. The Redevelopment Area is more particularly described on Attachment A and the inclusion of all of the property described on Attachment A is reasonably necessary to create a unified Redevelopment Area sufficient to encourage developers.
2. The Redevelopment Area is further declared to be blighted and in need of redevelopment pursuant to the Act, in that conditions now exist in the Redevelopment Area meeting the criteria set forth in §18-2103(11) of the Act, as described and set forth in the Blight Study.
3. The blighted and substandard conditions existing in the Redevelopment Area are beyond remedy and control solely through the regulatory process and the exercise of police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided by the Act and the elimination of the blighted and substandard conditions under the authority of the Act is found to be a public purpose and declared to be in the public interest.
4. The Redevelopment Area is in need of redevelopment and is or will be eligible for a redevelopment project under the provisions of the Act at the time of the adoption of any redevelopment plan with respect to the Redevelopment Area. The Redevelopment Area includes property that is reasonably necessary to create a unified Redevelopment Area sufficient to encourage developers.
5. This resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED this 20th day of November, 2017.

_____ Mayor

ATTEST: _____ City Clerk (seal)

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Please Direct All Correspondence
to Scottsbluff Office

MEMORANDUM

To: Nathan Johnson, City of Scottsbluff
From: John Selzer, Simmons Olsen Law Firm
Date: October 9, 2017
Re: Blight and Substandard Determination Study by M.C. Schaff & Associates

I reviewed the "Analysis Area #1 Blight and Substandard Determination Study" prepared by MC Schaff and Associates dated August 4, 2017 (the "Study"). I did not conduct an independent assessment of the analysis area and thus my statements in this memo are limited to my review of the Study.

The Council can make a determination based on the Study that the analysis area is blighted and substandard as those terms are defined by Neb. Rev. Stat § 18-2103(10) and (11). (These definitions are also set forth in page 4 of the Study). I've created a checklist which I use when reviewing blight and substandard studies. I've attached a blank checklist for the Council's use as well as the checklist which contains my marks and notes when reviewing this Study. The Council should do an independent review and determination based on the Study.

The analysis area includes a significant amount of agricultural land, which, by itself, does not qualify as blighted and substandard. However, blighted and substandard determinations are not invalid with respect to an area simply because certain parcels within the area would not be blighted and substandard if viewed in isolation. Instead, the Community Development Law is directed against "areas" rather than individual parcels. Development potential of a property is determined by the property itself and adjacent property. It is sufficient to include non-blighted/substandard parcels into an overall blighted and substandard area if the inclusion is reasonably necessary to create a unified redevelopment area sufficient to encourage developers. *See Fitzke v. City of Hastings*, 255 Neb. 46, 58-61 (1998).

Please let me know if you have any questions or concerns.

Blighted and Substandard Determination Checklist

✓ **Substandard: Neb. Rev. Stat. § 18-2103(10):**

___ A predominance of buildings or improvements (whether residential or nonresidential) contain AT LEAST ONE of the following characteristics:

- ___ Dilapidation
- ___ Deterioration
- ___ Age
- ___ Obsolescence
- ___ Inadequate ventilation
- ___ Inadequate light
- ___ Inadequate air
- ___ Inadequate sanitation
- ___ Inadequate open spaces
- ___ High density of population and overcrowding
- ___ Existence of conditions which endanger life or property by fire or other causes

___ The characteristics of the predominance of buildings or improvements checked above are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime (which cannot be remedied through construction of prisons) and detrimental to the public health, safety, morals, or welfare.*

✓ **Blighted: Neb. Rev. Stat. § 18-2103(11):**

___ An area which contains AT LEAST ONE of the following characteristics:

- ___ A substantial number of deteriorated or deteriorating structures
- ___ Defective or inadequate street layout
- ___ Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- ___ Insanitary or unsafe conditions
- ___ Deterioration of site or other improvements
- ___ Diversity of ownership
- ___ Tax or special assessment delinquency exceeding the fair value of the land
- ___ Defective or unusual conditions of title
- ___ Improper subdivision
- ___ Obsolete platting
- ___ Conditions which endanger life or property by fire and other causes

___ The characteristics of the area checked above substantially impair or arrest the sound growth of the community, retard the provision of housing accommodations, or constitute an economic or social liability and are detrimental to the public health, safety, morals, or welfare in its present condition and use*

___ AT LEAST ONE of the following conditions is met in the area:

- ___ Unemployment is at least one hundred twenty percent of the state or national average
- ___ The average age of the residential or commercial units is at least forty years
- ___ More than half of the platted and subdivided property is unimproved land that has been within the city for forty years and has remained unimproved during that time
- ___ The per capita income of the area is lower than the average per capita income of the city
- ___ The area has had either stable or decreasing population based on the last two decennial censuses.

___ Blighted areas of City shall not exceed 35% of City

***Conclusory determinations based the substantiveness of the defined and objective characteristics. See Neb. Rev. Stat. § 18-2102**

Analysis Area #1
Blight Study: MC Schell
8-4-17

Blighted and Substandard Determination Checklist

✓ Substandard: Neb. Rev. Stat. § 18-2103(10):

— A predominance of buildings or improvements (whether residential or nonresidential) contain AT LEAST ONE of the following characteristics:

- ✓ Dilapidation } 16% of buildings distributed throughout (pg 12)
- ✓ Deterioration }
- ✓ Age ~ 39% over 40 yrs (pg 13);
- ✓ Obsolescence (pg 18)
- Inadequate ventilation
- Inadequate light
- Inadequate air
- Inadequate sanitation
- Inadequate open spaces
- High density of population and overcrowding
- ✓ Existence of conditions which endanger life or property by fire or other causes

- 100% no sidewalks or poor condition (pg 14)
- 16 lots served by unimproved streets/roads (pg 14)
- flammable junk & debris fire hazard (pg 15)
- unsanitary conditions; mosquito vermin (pg 15)

✓ The characteristics of the predominance of buildings or improvements checked above are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime (which cannot be remedied through construction of prisons) and detrimental to the public health, safety, morals, or welfare.*

✓ Blighted: Neb. Rev. Stat. § 18-2103(11):

— An area which contains AT LEAST ONE of the following characteristics:

- ✓ A substantial number of deteriorated or deteriorating structures - 11/72 structures (pg 16)
- ✓ Defective or inadequate street layout 44% access to unimproved streets (pg 16)
- ✓ Faulty lot layout in relation to size, adequacy, accessibility, or usefulness - 1 problem lot (pg 17)
- ✓ Insanitary or unsafe conditions - fire hazards; no sidewalks (pg 17)
- ✓ Deterioration of site or other improvements
- Diversity of ownership
- Tax or special assessment delinquency exceeding the fair value of the land
- Defective or unusual conditions of title
- Improper subdivision
- Obsolete platting
- ✓ Conditions which endanger life or property by fire and other causes

- Unpaved streets;
- No difference between street & parcel;
- inadequate drainage
- either no or poor sidewalks
- unpaved parking
- 45% vacant
- 60% of lots have deteriorating site improvements

✓ The characteristics of the area checked above substantially impair or arrest the sound growth of the community, retard the provision of housing accommodations, or constitute an economic or social liability and are detrimental to the public health, safety, morals, or welfare in its present condition and use*

✓ AT LEAST ONE of the following conditions is met in the area:

- Unemployment is at least one hundred twenty percent of the state or national average
- The average age of the residential or commercial units is at least forty years 1 residential
- More than half of the plotted and subdivided property is unimproved land that has been within the city for forty years and has remained unimproved during that time
- The per capita income of the area is lower than the average per capita income of the city
- X The area has had either stable or decreasing population based on the last two decennial censuses. (pg 23)

✓ Blighted areas of City shall not exceed 35% of City

*Conclusory determinations based the substantiveness of the defined and objective characteristics. See Neb. Rev. Stat. § 18-2102

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**LEGAL DESCRIPTION
SCOTTSBLUFF ANALYSIS AREA
Scottsbluff, Nebraska**

***Beginning** at the northwestern corner of Parcel 010303294, otherwise known as the unplatted triangular sliver of land of unknown ownership located between the southern right-of-way (ROW) line of City Route/West 27th Street, the northeastern ROW line of Burlington Northern Sante Fe (BNSF) Railroad, and the northern ROW line of the easterly extension of County Road K;*

***thence** northeasterly, and perpendicular to the BNSF main track centerline, to the northern ROW line of City Route/West 27th Street;*

***thence** southeasterly on the northern ROW of City Route/West 27th Street to the west ROW line of Avenue O;*

***thence** north on west ROW of Avenue O to the northeast corner of Block 1, Case Subdivision;*

***thence** continuing west on the north line of Block 1, Case Subdivision to the north-south centerline of Section 15, Township 22 North, Range 55 West (15-22-55), also known as the west corporate limits line of the City of Scottsbluff;*

***thence** north on the north-south centerline of Section 15-22-55, to the south ROW line of US Highway 26;*

***thence** east on the south ROW line of US Highway 26 to the northwest corner of Lot 7A, Block 1, Frank Friedlan Addition Replat;*

***thence** south on the west line of said Lot 7A, Block 1, Frank Friedlan Addition Replat to the southwest corner of said Lot 7A, Block 1, Frank Friedlan Addition Replat;*

***thence** east on the south line of said Lot 7A, Block 1, Frank Friedlan Addition Replat to its intersection with the northerly extension of the west ROW of Avenue K;*

***thence** south on the northerly extension of the west ROW of Avenue K and continuing on the west ROW of Avenue K to the south ROW of West 29th Street;*

***thence** east on the south ROW of West 29th Street to the northwest corner of Lot 1, Bjorling Addition;*

***thence** south on the west line of Lot 1, Bjorling Addition to the southwest corner of said Lot 1;*

***thence** continuing on the southerly extension of the west line of Lot 1, Bjorling Addition to its intersection with the westerly extension of the south line of Lot A, Replat of Baltes Addition;*

***thence** westerly on the westerly extension of the south line of Lot A, Replat of Baltes Addition to the northerly extension of the east line of Lot 1, Block 5, Baltes Second Addition;*

***thence** south on the northerly extension of the east line of Lot 1, Block 5, Baltes Second Addition to the northeast corner of said Lot 1, Block 5 Baltes Second Addition;*

***thence** west on the north line of Baltes Second Addition to the northeast corner of Block 1, Alf Addition;*

***thence** south on the east line of Block 1, Alf Addition to the southeast corner of said Block 1, Alf Addition;*

***thence** south to the intersection of the centerlines of West 27th Street and Avenue K;*

***thence** south on centerline of Avenue K to the intersection of the centerlines of Avenue K and West 26th Street;*

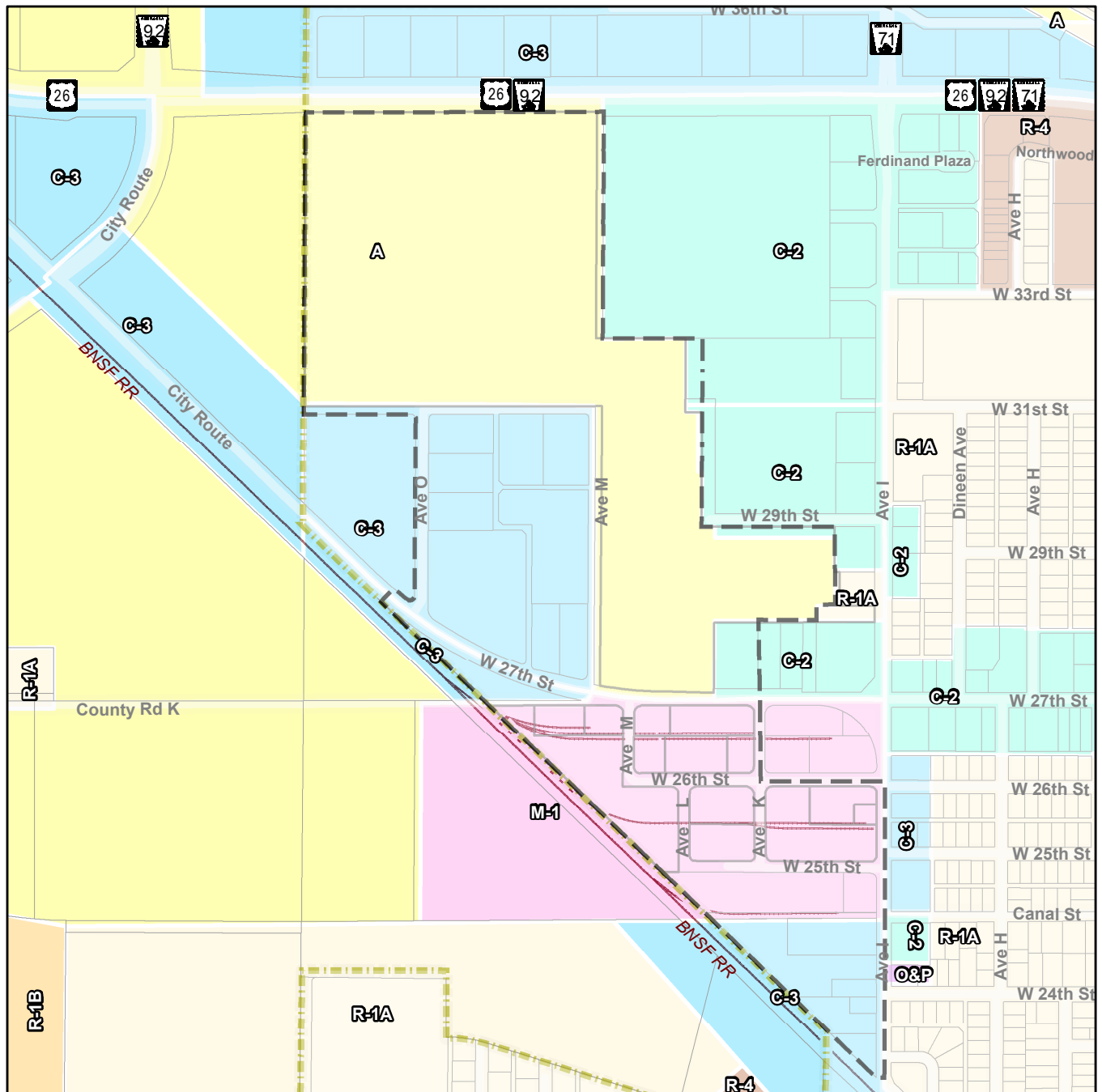
***thence** east on the centerline of West 26th Street to the intersection of the centerlines of West 26th Street and Avenue I;*

***thence** south on the centerline of Avenue I to a point perpendicular to the southeast corner of Parcel Number 010159754, also known as PT SE NE TL 1, Unplatted Lands 22-22-55 (.37 acres);*

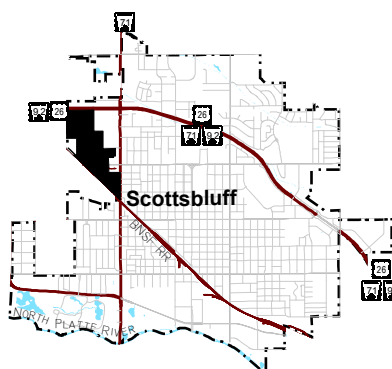
***thence** west on the this said perpendicular line to the southeast corner of said Parcel Number 010159754, said point also being on the northeastern ROW line of BNSF Railroad;*

***thence** northwesterly on the northeastern ROW line of BNSF Railroad to the **Point of Beginning**.*

No parcels shall be excepted from the above described boundary, as none of the parcels within the described boundary are owned by members of the Scottsbluff City Council.



Zoning		
A	O&P	Blight Study Area
C-2	R-1A	Corporate Limits
C-3	R-1B	
M-1	R-4	



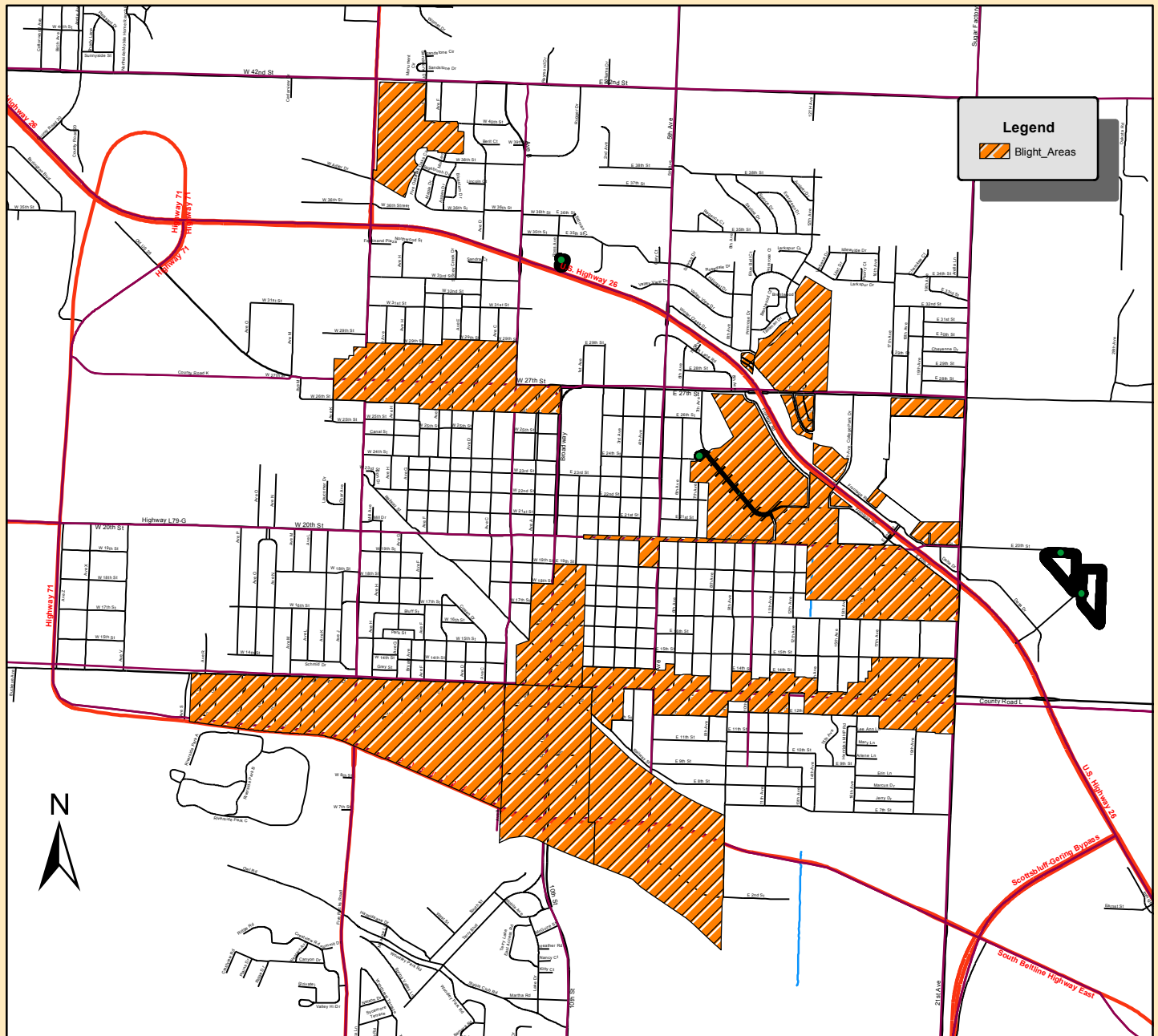
Existing Zoning

City of Scottsbluff
Scotts Bluff County, NE

Data Sources:
Land Use: City, 2005 with field updates
Parcels: Scotts Bluff County, 2016
Aerial: US Army Corps of Engineers, 2011



Areas Designated as Blighted and Substandard



March 24, 2017

0 1,600 3,200 6,400 Feet

Map by Annie Folck- City of Scottsbluff
Coordinate System:
NAD 1983 StatePlane Nebraska FIPS 2600 Feet
Lambert Conformal Conic

City of Scottsbluff

The City makes no representation or warranty as to the accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement or location of any map features thereon.