

# **City of Scottsbluff, Nebraska**

**Monday, December 16, 2013**

**Regular Meeting**

## **Item Resolut.6**

**Council to consider a Resolution outlining an amended  
Redevelopment Area for Blight Area Survey No. 7, eliminating the  
area known as Sheldon Heights.**

**Staff Contact: Rick Kuckkahn, City Manager**

## RESOLUTION 13-

### 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 interests 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, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, 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 City Council shall, by resolution, declare the area to be blighted and substandard;

d. At its regular City Council meeting on August 19, 2013, the City Council determined through the passage of Resolution No. 13-08-01 that the Redevelopment Area (as provided for in Resolution No. 13-08-01) should be declared blighted and substandard, and in need of redevelopment, as required by the Act;

e. The City Council has now reviewed and discussed an Amended Study of Blight and Substandard Conditions (the "Amended Blight Study") prepared by Charles K. Bunger, Attorney at Law;

f. The Amended Blight Study was forwarded to the Planning Commission of the City for its review and recommendation and the City Council reviewed the recommendation of the Planning Commission; and

g. The City Council desires to amend the boundaries of the Redevelopment Area by deleting certain residential properties as described on Attachment 1a which will result in the removal of those residential properties from the blighted and substandard designation.

#### Resolved that:

1. The boundaries of the Redevelopment Area are amended by deleting certain properties more particularly described on **Attachment 1a**. The deleted properties are no longer designated as blighted and substandard.

2. The Redevelopment Area, as amended (the "Amended Redevelopment Area"), continues to be blighted and substandard, and in need of redevelopment pursuant to the Act, in that conditions continue to exist in the Amended Redevelopment Area that meet the criteria set forth in Section 18-2103(11) of the Act, as described and set forth in the Amended Blight Study.

3. The Amended Redevelopment Area remains in need of redevelopment and is an eligible site for a redevelopment project under the provisions of the Act at the time of the adoption of any redevelopment plan with respect to the Amended Redevelopment Area.

4. This Resolution shall become effective immediately upon its adoption.

**PASSED and APPROVED** on December \_\_\_\_, 2013.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk (Seal)

Blight Study Removal Area Description – (Sheldon Heights Area)

Beginning at the North Quarter corner of Section 24, Township 22 North, Range 55 West of the 6<sup>th</sup> P.M., Scotts Bluff County, Nebraska, thence southerly on the north-south centerline of Section 24, to the point of intersection with the centerline of the Winter's Creek Canal, thence westerly and northerly on the centerline of the Winter's Creek Canal, to the point of intersection with the centerline of East 27<sup>th</sup> Street, thence easterly on the centerline of East 27<sup>th</sup> Street, to the Point of Beginning.

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## **AMENDED STUDY OF BLIGHT AND SUBSTANDARD CONDITIONS**

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City of Scottsbluff, Nebraska

November 8, 2013

This report documents the existence of blighted and substandard conditions for an area in Scottsbluff, Nebraska (the “Study Area”). This Study Area includes single family residences, commercial businesses, a large underutilized retail center, a public parkway, several underdeveloped lots and several large areas that contain parcels that are neither subdivided nor developed. This study is intended to review the Study Area for eligibility (as blighted and substandard) pursuant to Section 18-2103 of Nebraska Revised Statutes, as contained in the Nebraska Community Development Law (the “Act”).

### **Removal of the Sheldon Heights Subdivision**

The Sheldon Heights Subdivision was originally included in this Study Area. The City requested that it be deleted from the Study Area and that the blighted and substandard designation on such properties be removed. The present Amended Study examines the Study Area without that subdivision. As specifically set out herein, there are sufficient substandard improvements (infrastructure) and blighting conditions remaining in the Study Area (as amended) to support this Amended Study’s conclusions. The conformance of the prior declaration to the Comprehensive Plan (as specifically enumerated below) is not altered by the deletion of the subdivision. In summary, while the age and condition of the public improvements in the subdivision certainly contributed to the original findings of the Study, its deletion does not invalidate the conclusion of this Amended Study.

### **Legal Description**

The Study Area (with the proposed deletion) is described on Exhibit A1, attached hereto and made a part hereof by this reference.

### **Relevant Nebraska Statutes**

The constitutional terms, “Substandard” and “Blighted” are statutorily defined in §18-2103, which are set out below:

(10) **Substandard areas** means an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare;

(11) **Blighted area** means an area, which

(a) by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of 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 or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use; and,

(b) in which there is at least one of the following conditions:

(i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average;

(ii) the average age of the residential or commercial units in the area is at least forty years;

(iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time;

(iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or

(v) the area has had either stable or decreasing population based on the last two decennial censuses.

### **Analysis of Study Area**

This section reviews the land use, infrastructure, building and economic conditions found within the Study Area. A field survey was completed on June 13, 2013. The following section identifies such existing conditions and additional factors which contribute to a determination of a blighted and substandard condition. This initial analysis is based in part upon the observations during the field survey.

As previously set forth in Section 18-2103 (10), the factors which define a **substandard area** include a “preponderance of buildings or improvements, whether nonresidential or residential in character, which, by reason of” the following circumstances:

1. ***Dilapidation or Deterioration***

This subsection considers the improvements within the Study Area. The main infrastructure components include water, sewer, sidewalks, streets, curb and gutter, and accessibility. Public utilities can directly influence a community’s capacity for growth. If infrastructure improvements are outdated or unavailable, land development must await their installation or updating. While all the above mentioned criteria were evaluated, only some of those determined to contribute to the blight and substandard conditions for the Study Area need be considered here, as follows: the unimproved parcels (northeast of the intersection of East 27<sup>th</sup> Street and U.S. Highway 26) (a) is served by a dilapidated storm sewer structure requiring a new contained system to be installed to allow for its development; and, (b) contains a substantial amount or buried rubble from both buildings and broken infrastructure.

2. ***Age or Obsolescence***

The primary commercial use in Study Area #1 is a partially occupied shopping center, located generally at the southwest corner of the busy intersection of East 27<sup>th</sup> Street and U.S. Highway 26. This facility has consistently underperformed as a retail center since it was converted from its past use. There is still approximately 50% vacancy in the retail center. The retail center continues to experience economic obsolescence resulting in lower property and sales tax for the city. Furthermore, industry studies indicate that in order for a mall setting retail center to succeed, it must achieve critical mass by containing large anchor stores or a significantly more modern upgrade than the current facility exhibits. This type of investment will reasonably not occur unless there is significant public assistance through the redevelopment authority, or an alternative public type of re-use. Considering its prominent location, a successful redevelopment effort is critical. Without redevelopment of this structure and the surrounding area it will remain functionally and economically obsolete.

The majority of the buildings in the Study Area exceed forty 40 years in age. These include the majority, if not all, of the residences in the Study Area.

As previously set forth in Section 18-2103 (11), the factors which define a **blighted area** include:

(a) Any combination of the following factors which “substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability”, to wit:

*A substantial number of deteriorated or deteriorating structures, inadequate street layout, and the deterioration of improvements*

The deteriorated sewer improvements and buried structures described (as substandard above) also clearly fit within this definition. These continuing conditions and underuse of the properties will lead to further deterioration and the consequent emergence of conditions that constitute an economic liability, which both endanger property and are detrimental to the public welfare.

*Diversity of Ownership*

There are a significant number of different owners and parcels in the Study Area which contribute to the difficulty in developing a unified redevelopment strategy.

(b) the following conditions (from five objective criteria listed in the statute) are present, to wit:

*The average age of the residential or commercial units in the area is at least forty years*

As previously discussed, the majority of the buildings in the Study Area exceed forty (40) years in age.

*Decreasing Population*

The Study Area is located in a census tract in which the 2010 decennial census reports a decline of population (2943 people) from that reported in the 2000 decennial census (2972 people). Therefore, the Study Area has displayed a stable or decreasing population between the last two decennial censuses.



### **Conclusion of Blighted and Substandard Analysis**

Based on this analysis, the property within the Study Area meets the subjective criteria of both blighted and substandard conditions and displays the presence of at least two of the objective criteria required for a finding of blighted condition.

### **Conformance with the Comprehensive Plan**

A declaration of blighted and substandard conditions in the Study Area conforms with the City of Scottsbluff Comprehensive Plan because it:

- Is located in an area eligible for such declaration.
- Allows for incentives to keep the employment base and supporting commercial activity in an area currently served by major infrastructure.
- Provides for incentives to encourage the development of business parks rather than a continuation of “strip” commercial development.
- Is located along an existing major arterial between two major “Entrance Nodes”.
- Provides a financing tool for the development of a variety of additional housing units.

### **Blighted and Substandard Area Declaration**

**By virtue of the findings of this study, the Study Area (as amended) may retain the blighted and substandard designation, pursuant to the requirements of the Nebraska Community Development Law.**

**Planning Commission Minutes**  
**Regular Scheduled Meeting**  
**December 9, 2013**  
**Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, December 9, 2013, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on November 29, 2013. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

**ITEM 1:** Chairman, Becky Estrada called the meeting to order. Roll call consisted of the following members: Jim Zitterkopf, Dave Gompert, Angie Aguillo, Callan Wayman, Mark Westphal, Anita Chadwick, and Becky Estrada. Absent: Henry Huber and Dana Weber. City officials present: Annie Urdiales, Planning Administrator, and Gary Batt, Code Administrator II.

**ITEM 2:** Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on the bulletin board in the back area of the City Council Chamber, for those interested parties.

**ITEM 3:** Acknowledgment of any changes in the agenda: **Item 7A. Ordinance to vacate alley was withdrawn** from the agenda at the request of the property owner.

**ITEM 4:** Business not on agenda: None

**ITEM 5:** Citizens with items not scheduled on regular agenda: None

**ITEM 6:** The minutes of 11/12/13 were reviewed and approved. A motion was made to accept the minutes by Aguillo, and seconded by Gompert. "YEAS": Gompert, Zitterkopf, Aguillo, Wayman, Chadwick, Westphal, and Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Huber and Weber. Motion carried.

**ITEM 7B:** The Planning Commission reviewed a Resolution to amend Blight and Substandard Area Study # 7. The resolution removes the Sheldon Heights Subdivision from the original study. When the plan was first reviewed by the Planning Commission at their meeting of August 12<sup>th</sup>, the subdivision was included in the area as homes in this subdivision are forty years or older and the streets are unpaved, which is part of the criteria used to proclaim an area as blighted and substandard, which then allows Tax Increment Funding (TIF) to be used for improvements. When the plan was approved by the City Council residents from the subdivision expressed opposition to being included in the Blighted and Substandard area. Dave Schaff, with M.C. Schaff and Associates answered questions as to why the residential area was included in the original study. When the study was done the intent was to include areas which would best benefit the most people in this area of the City and use TIF for redevelopment in several

50 areas. Sheldon Heights was included in the area as some homes are over forty years old and the streets  
51 are unpaved this also saved funds in the original study. Since the homeowners have expressed concerns  
52 over having the area designated as blighted and substandard, this was not the intent of the developer, a  
53 new study was done removing the Residential Subdivision and included more information on the old  
54 Maxwell property which will also meet the criteria needed for a Blighted and Substandard designation.  
55 If in the future the residential would like to use TIF funding they would have to do a separate study for  
56 their area. The question was asked why the Mall area was included in the study, with TIF the prospective  
57 new owners of the mall will benefit from the Tax Increment Financing if they chose to use this as a way  
58 to get more businesses interested in located in the empty areas in the Mall.

59  
60 The City Council will review the resolution and amended Blighted and Substandard Study of Area # 7,  
61 which will remove Sheldon Heights Subdivision from the original study area at their next Council  
62 meeting.

63  
64 **Conclusion:** A motion was made by Gompert and seconded by Westphal to make positive  
65 recommendation to Council to approve the Resolution and amended Survey Area # 7 Blighted and  
66 Substandard Study. "YEAS": Zitterkopf, Chadwick, Gompert, Wayman, Westphal, Aguillo, and  
67 Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Huber, and Weber. Motion carried.

68  
69 There being no further business the Planning Commission with a motion to adjourn made by Aguillo and  
70 seconded by Chadwick the meeting was adjourned at 6:15 p.m. "YEAS": Wayman, Westphal, Aguillo,  
71 Chadwick, Zitterkopf, Gompert, and Estrada. NAYS: none. ABSENT: Huber, and Weber. Motion  
72 carried.

73  
74 \_\_\_\_\_  
75 Becky Estrada, Chairperson

76  
77 Attest: \_\_\_\_\_  
78 Annie Urdiales

From: Sheldon Heights Home Owners  
Scottsbluff, NE

December 12, 2013

To: Mayor and City Council  
City of Scottsbluff, NE  
2525 Circle Drive  
Scottsbluff, NE 69361

Scottsbluff Planning Commission  
City of Scottsbluff, NE  
2525 Circle Drive  
Scottsbluff, NE 69361

RE: Proposed Development at 27<sup>th</sup> and Hwy 26  
Blighted and Substandard Designation  
Sheldon Heights Addition

It is our understanding that the City Council may be discussing the above references designated blighted and substandard area at their December 16, 2013 council meeting and that consideration will be to remove Sheldon Heights from that Blighted and Substandard area.

Changes in the Blighted and Substandard Designated area at this time, serves no benefit to the proposed developers, the City or Sheldon Heights. However, removal of Sheldon Heights will have negative impact on possible current and future funding opportunities for Sheldon Heights.

**We want to go on record to request that the Council NOT remove Sheldon Heights from the designated area at this time.**

Our request is based on strong verbal and verbal suggestions from the City Manager, Developers, and City Council to NOT be removed from the designated area to protect Sheldon Heights' rights and opportunities to be included in the planning and possible funding for street improvements under the proposed 27<sup>th</sup> Street/Hwy 26 project as well as other projects that may develop within the designated area.

It is our understanding that the scope of the current proposed 27<sup>th</sup> Street/Hwy 26 project has not been established and finalized and that there may be several development and funding options available under that project that could include benefits to Sheldon Heights - if it is kept in the designated area.

It is also our understanding that possible improvements at Monument Mall which are being considered at this time may generate excess tax revenues that could be used for improvements to Sheldon Heights - if it is kept in the designated area.

**We want to go on record to request that the Council NOT remove Sheldon Heights from the designated area at this time.**

Thank you for your understanding in this matter. We look forward to meeting with the City Council on December 16, 2013.

Respectfully Submitted on behalf of Sheldon Heights Home Owners



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cc: Rick Kuckkahn, City Manager

cc: Cindy Dickenson, City Clerk

cc: Annie Urdialis, Development Services Dir