City Council Introduction: **Monday**, February 11, 2008
Public Hearing: **Monday**, February 25, 2008, at **5:30** p.m. Bill No. 08R-48

FACTSHEET

TITLE: A Resolution requested by the Director of the Urban Development Department declaring the **Northwest 48th & I-80 Area** as blighted and substandard, as determined by the *Northwest 48th Street Redevelopment Area Blight and Substandard Determination Study.*

STAFF RECOMMENDATION: A finding of reasonable presence of substandard and blighted conditions (**Miscellaneous No. 07010)**.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/30/08
Administrative Action: 01/30/08

RECOMMENDATION: A finding of reasonable presence of substandard and blighted conditions (8-0: Carroll, Taylor, Larson, Esseks, Cornelius, Francis, Sunderman and Moline voting 'yes'; Gaylor-Baird absent).

FINDINGS OF FACT:

1. This is a request to declare the **Northwest 48th & I-80 Area** as blighted and substandard pursuant to Neb.Rev.Stat. § 18-2103(11). After an area is declared blighted and substandard, the City may proceed with the preparation and approval of a Redevelopment Plan. Redevelopment Plan activities may include utilizing Tax Increment Financing (TIF) from private development to pay for public infrastructure and improvements.

2. This Study Area covers 503 acres, more or less, consisting of vacant/agricultural and single family residential land uses, generally located from West Holdrege Street south to the Interstate 80 right-of-way line, and N.W. 56th Street east to N.W. 40th Street, adjacent, but not within, the City of Lincoln.

3. The Executive Summary and complete **Northwest 48th Street Redevelopment Area Blight and Substandard Determination Study** is being provided to the City Council under separate cover.

4. The staff recommendation to find the area to be blighted and substandard is based upon the "Analysis" as set forth on p.3-5, concluding that the *N.W. 48th & I-80 Area* qualifies as blighted and substandard within the definition set forth in the Nebraska Community Development Law, as determined by the *Northwest 48th Street Redevelopment Area Blight and Substandard Determination Study.* The Study is consistent with the redevelopment and revitalization activities identified in the Comprehensive Plan. The staff presentation is found on p.7-9.

5. Testimony in support by DaNay Kalkowski on behalf of Ringneck Development, LLC, the developer of the proposed I-80 West Lincoln Business Center Planned Unit Development, is found on p.10.

6. There was no testimony in opposition. Planning Commissioners engaged the Urban Development Director in a philosophical discussion about the intent of the state legislation versus actual practice in Lincoln and other Nebraska cities (p.8-9).

7. On January 30, 2008, the Planning Commission agreed with the staff recommendation and voted 8-0 (Gaylor-Baird absent) to find that there is a reasonable presence of substandard and blighted conditions in the **Northwest 48th Street Redevelopment Area** and that the area should be declared blighted and substandard (**Miscellaneous No. 07010**).

FACTSHEET PREPARED BY: Jean L. Walker **DATE**: February 1, 2008

REVIEWED BY:_____ **DATE**: February 1, 2008

REFERENCE NUMBER: FS\CC\2008\MISC.07010 Blight

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 30, 2008 PLANNING COMMISSION MEETING

PROJECT: Miscellaneous #07010
NW 48th & I-80 Area Blight and Substandard Determination Study

PROPOSAL: The *NW 48th & I-80 Area Blight and Substandard Determination Study*

CONCLUSION: The NW 48th & I-80 Area qualifies as substandard and blighted within the definition set forth in the Nebraska Community Development Law, NEB REV STAT § 18-2103, as determined by the *NW 48th & I-80 Area Blight and Substandard Determination Study*. The Substandard and Blight Determination Study is consistent with the redevelopment and revitalization activities identified in Lincoln-Lancaster County 2030 Comprehensive Plan.

RECOMMENDATION:
Finding that there is a reasonable presence of substandard and blighted conditions in the NW 48th & I-80 Area as per § 18-2103 (11) Nebraska Revised Statutes.

GENERAL INFORMATION:

LOCATION: An area generally located from West Holdrege Street south to the Interstate 80 right-of-way line, and NW 56th Street east to NW 40th Street, adjacent, but not within, the City of Lincoln, Lancaster County, Nebraska.

PURPOSE: Nebraska Community Development Law, NEB REV STAT § 18-2109 requires the Planning Commission to review whether an area is substandard and blighted. A recommendation of the Planning Commission is required to be provided to the City Council prior to a redevelopment area being declared blighted and substandard.

AREA DESCRIPTION: See Attached.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2030 Lincoln and Lancaster County Comprehensive Plan and the Airport West Subarea Plan identify a variety of future land uses within this study area. Future land use designations include Industrial, Commercial, Green Space and Urban Residential uses.

From the 2030 Lincoln/Lancaster County Comprehensive Plan:

Guiding Principles for the Urban Environment - Overall Form

Preserve and enhance entryway corridors into Lincoln and Capitol View Corridors. (P. 11)

Guiding Principles for the Economy

The City should work with developers interested in providing new industrial and office development sites. These sites are important for new companies to come to town and to help existing businesses relocate within Lincoln. (P. 29)

The community actively encourages public-private partnerships, strategic alliances and collaborative efforts.... as a means to accomplish its future economic objectives. (P. 30)

Guiding Principles for Business and Commerce

Commercial and Industrial Districts in Lancaster County shall be located:

- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors

From the Airport West Subarea Plan:

*Identification of land for **new Industrial and Employment Center** along Interstate 80 centered on the NW 48th Street interchange. Nearly 800 acres north of I-80 are shown for future commercial and industrial uses in well planned and landscaped Industrial Park setting.* (P. I)

Future road improvements are planned in the area including widening of NW 48th, improvements to NW 56th and W Holdrege and realignment of NW 40th/38th.

ANALYSIS:

1. This is a request to determine whether the NW 48th & I-80 Area should or should not be declared substandard and blighted per § 18-2103 (11) Nebraska Revised Statutes. After an area is declared substandard and blighted, the City may proceed with the preparation and approval of a Redevelopment Plan. Redevelopment activities may include utilizing Tax Increment Financing (TIF) from private development to pay for public infrastructure and improvements.

2. The Urban Development Department hired a consultant who conducted the study to determine whether or not there was a presence of substandard or blighting conditions in the study area per § 18-2103 (11) Nebraska Revised Statutes.

3. The area comprises 503 acres. According to the land use categories identified in the Blight Study, approximately 3.9% of the land is in single family residential use, 4.3% is developed as street or highway right-of-way, and 91.8% is vacant.

4. All of the land within the study area is outside the City of Lincoln corporate limits. Current zoning in the area is Agricultural with a small area at the northeast corner of NW 48th & I-80 zoned as Highway Commercial.

5. The Urban Development Department requests the determination study be reviewed by the Planning Commission for conformance with the Comprehensive Plan.

6. A **substandard** area is defined in the Nebraska Revised Statutes as containing a predominance of buildings or improvements with at least one of four conditions present:
    1. Dilapidation/deterioration
    2. Age or obsolescence
    3. Inadequate provision for ventilation, light, air, sanitation or open spaces
    4. a) High density of population and overcrowding; or
       b) The existence of conditions which endanger life or property by fire and other causes; or
       c) Any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to the public health, safety, morals or welfare.

7. According to the Blight Study, the area qualifies as **substandard** because three of the four factors were found to have a strong presence while one of four was found to be present to a reasonable extent in the study area.
    A) Dilapidation, deterioration, age or obsolescence of structures is evident in that more than one third of commercial/industrial and almost 60% of residential structures are in deteriorated or deteriorating condition. (Page 21)**.**
    B) Based on field evaluation 80% of structures are over 40 years of age. (Page 22).
    C) Based on field evaluation conducted by the consultant, 58% of parcels have minor to major excessive debris which could pose a threat to human health, and lack of public infrastructure means no public sewer or water service is available. (Page 23).
    D) Conditions which endanger life or property by fire and other causes are evidenced by the presence of flammable materials and the absence of fire hydrant connections. (Page 24).

8. A **blighted** area is defined in the Nebraska Revised Statutes as having the presence of one or more of the twelve following conditions:
    1. A substantial number of deteriorated or deteriorating structures;
    2. Existence of defective or inadequate street layout;
    3. Faulty lot layout in relation to size, adequacy, accessibility or usefulness;
    4. Insanitary or unsafe conditions;
    5. Deterioration of site or other improvements;
    6. Diversity of ownership;
    7. Tax or special assessment delinquency exceeding the fair value of the land;
    8. Defective or unusual conditions of title;
    9. Improper subdivision or obsolete platting;
    10. The existence of conditions which endanger life or property by fire or other causes;

11. 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;
12. Is detrimental to the public health, safety, morals, or welfare in its present condition and use; and in which there is at least one of the following conditions:
    a) Unemployment in the designated blighted area is at least one hundred twenty percent of the state or national average;
    b) The average age of the residential or commercial units in the area is at least 40 years;
    c) More than half of the plotted and subdivided property in the area is unimproved land that has been within the City for 40 years and has remained unimproved during that time;
    d) The per capita income of the designated blighted area is lower than the average per capita income of the city or City in which the area is designated; or
    e) The area has had either stable or decreasing population based on the last two decennial censuses.

9. The study found the following 8 **blighting** factors to be present to a strong extent in the study area:
    A) A substantial number of deteriorated or deteriorating structures (Page 26)**.**
    B) Defective or inadequate street layout (Page 31).
    C) Insanitary or unsafe conditions (Page 33).
    D) Deterioration of site improvements (Page 34).
    E) Improper subdivision or obsolete platting (Page 38).
    F) Conditions which endanger life or property by fire and other causes (Page 39).
    G) Other environmental and blighting factors (Page 41).
    H) I) The average age of the residential or commercial units in the area is estimated at 50.7 years (Page 42)

10. The study finds there is at least a reasonable distribution of all four factors that constitute an area as substandard within the study area, and out of 12 possible factors that constitute an area blighted, 8 are strongly present in the area. Therefore it is the conclusion of the study that sufficient conditions and factors meet the criteria of substandard and blight as evidenced in the Blight Study. These factors present a serious barrier to the planned and coordinated development of the area, have created an environment that negatively impacts private sector investment in the area, and serve as a detriment to the overall healthy economic growth and physical development of the community.

11. The Blight Study is on file with the Urban Development Department and the Planning Department.

Prepared by:

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Planner

DATE: January 10, 2008

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MISCELLANEOUS NO. 07010, "NORTHWEST 48TH & I-80 AREA" BLIGHT DETERMINATION

PUBLIC HEARING BEFORE PLANNING COMMISSION: January 30, 2008

Members present: Moline, Cornelius, Francis, Esseks, Larson, Taylor, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

Staff recommendation: A finding of reasonable presence of substandard and blighted conditions.

This application was removed from the Consent Agenda due to a letter received from Lincoln Public Schools about use of Tax Increment Financing (TIF) funds.

Staff presentation: **Sara Hartzell of Planning staff** submitted a letter from Lincoln Public Schools discussing some concerns about use of TIF funds in new residential areas.

Hartzell discussed the land uses in the area, which are shown as industrial, commercial and residential. This is the first step in the process of a redevelopment plan. She believes that the City has adopted a policy of not using TIF in "new" residential areas. Existing residential areas are appropriate for TIF.

The project previously deferred on today's agenda (I-80 West Lincoln Business Center PUD) covers most of the proposed blighted area located on the west side of N.W. 48th Street. As that project comes forward, there will also be a Comprehensive Plan amendment to the land use plan so that there is no residential on the south side of Holdrege Street. On the east side, however, there is still some residential shown. We do not know yet for certain what the land use is going to be on that site. At this point, there has been a blight study in the area and this is a request to have the area designated as blighted and substandard in order to move forward with a redevelopment plan.

Esseks suggested that this entire area looks like an agricultural area that is being farmed and probably getting an agricultural use value assessment. He does not see how it can be defined as an area which is blighted. It looks like an area waiting to be developed. There are 30 homes in the area, most of which are not in good shape, but he suspects they are older farmsteads that have not been improved with the expectation that the area will be developed. It is an area waiting for development and in excellent position to be developed. How can we call it blighted? Hartzell agreed that this is different than some of the other blighted areas. There is a list of criteria and evaluation methodologies used to come to the "blighted" conclusion which the consultant can explain.

Carroll noted that LPS is requesting that all of the residential be excluded from TIF. Where does this issue get addressed? Hartzell noted that the blight study does not say where the TIF would be used. The blight study evaluates the existing condition. She believes that the redevelopment plan will talk about the general intentions for this area, and beyond the redevelopment plan are redevelopment projects. She anticipates that the area west of N.W. 48th will be part of that

redevelopment plan as a project. As other areas on the east side come forward, they would come forward as an amendment to the redevelopment plan and would come before the Commission again.

Larson believes the question is – will these agricultural lands turn into residential uses? Hartzell explained that the main concern of LPS is that new residential development means new use of schools and new burdens on those schools. Larson wondered about making this stipulation in the blight determination. **Marvin Krout, Director of Planning,** stated that there is interest and some private planning going on on the east side of Holdrege, and we know that the property at the southeast corner of Holdrege and N.W. 48th is being contemplated for commercial uses – whether that would extend all the way to N.W. 40th, we do not know. You can identify an area as being blighted and then come in with a redevelopment plan that is less land area. There is still an opportunity to comply with the wishes of LPS to make sure there is no TIF used over any residential areas, and that redevelopment plan will come before the Planning Commission.

Francis inquired whether the 18 properties identified as deteriorating and 24 properties as obsolescent are owned by the developer at this time. Hartzell did not know for sure.

Proponents

1. David Landis, Director of Urban Development, has had discussions with the owners and developers of the land on the west side of N.W. 48th. Their goal is to do a commercial development south of Holdrege. There are four owners on the east side of N.W. 48th who have been in conversation and there is hope that it will become a piece of attractive developable land supported by TIF as a potential site for economic development growth.

Esseks observed that there is such a great distinction between this large agricultural area and other redevelopment projects that have come before the Commission in truly blighted parts of our city. This looks like an area ripe for commercial development. The land is mostly undeveloped. Esseks believes that the distinction is so great that this potential blighted designation will introduce such a contradiction that we may threaten the future use of blighting areas in other parts of the city that could be developed otherwise. He is worried about setting a precedent and what looks like a manipulation of the law to achieve a purpose. Is there some other way to provide financial incentive to these developers? Landis suggested that it is a political question. Is there a political risk of using a blight designation in a way that might call into question the use of the law and threaten the ability to use TIF in a more appropriate usage? Lincoln is probably the last community in Nebraska to ask itself this question. He does not know of a TIF designation that has ever been challenged in court and that has not been upheld by the court. We will essentially be joining the very common practice of this entire state. What was originally a community development tool meant to save and rejuvenate the core, has been stretched in its application by practically every community in the state. He understands the sensitivity but this is a study which has been done by a professional consultant. In the market place, this is an economic development tool that everyone else is using in this context and in this type situation.

Esseks discussed the costs and suggested that it seems incumbent for us to determine whether there are other tools which are less costly. Landis suggested that this is a political question as opposed to a planning question. Taxes will continue to be paid in this area. There is no attempt to move this land into a non-tax status. LPS has no objection to using TIF if the property is moved from its agricultural use to commercial, but LPS does object if it is used for residential purposes. Given the N. 56th situation, Landis assured that there is an understanding between the City and LPS. He will not be back here asking the Planning Commission to TIF new residential property; however, he will be back here requesting to use TIF for a national warehouse distribution center which wants to bring 150 jobs and 60 million dollars of investment.

Esseks pointed out that the Comprehensive Plan does provide for consideration of the cost effectiveness of proposed projects. It is in the interest of the public that we look at whether the public will be served from a public health and benefit point of view. Landis suggested that the Comprehensive Plan also says it is wise to preserve and enhance the entryway corridors into Lincoln and to work with developers interested in providing new industrial and office sites. For commercial and industrial districts, the Plan also advocates locations with adequate road capacity that are compatible with existing or planned residential uses, all of which apply to this area. The Plan also admonishes us to locate commercial and industrial in areas accessible by various modes of transportation, which also applies to this area.

Cornelius acknowledged that he is here to review this report from the consultant and make a determination. His understanding of the application of TIF is that, along with factors such as substandard conditions or blighted conditions, there be a “but for” this tool there is no possibility of development. How do we apply the “but for” condition here, right by a major freeway, with access, open land, etc.? Landis suggested that the question is not whether there will be development, but will there be “this” development, i.e. would “this” development in “this” form exist absent the TIF? TIF provides new resources and allows a larger development and an upgraded development. Therefore, Landis submitted that this proposal meets the “but-for” test. The “but-for” is not the hurdle that one might think it would be in the application of TIF. We will have the obligation to meet the “but-for” test, but it is more narrow than what its name might imply. Cornelius suggested that it’s hardly a test at all.

Landis went on to state that 20 years ago, the blight designation was sold as the tool to attack impoverished areas of Lincoln. In the last 20 years, the market place has grabbed this tool and transformed it from community development to more economic development applications, and this particular blight designation falls into one of those categories.

Landis confirmed that the consultants are certified planners and they have done this for other communities as well. He does not know of a certified planner’s report that has not been upheld by a court.

Francis expressed concern about allocating TIF funds on a first come first serve basis. Landis explained that there is a maximum utilization, which is 35% of the city. Lincoln is currently at about 11%. A great many of the core neighborhoods are already in the 11%.

Support

1. Danay Kalkowski appeared on behalf of **Ringneck Development, LLC,** in support of the blight designation. Her client has a contract interest in some of the property and owns the property to the north of Holdrege Street. Ringneck supports the blight as shown, even though the Comprehensive Plan today shows a little bit of residential in the northern portion on the south side of Holdrege. The applications that have been submitted for the I-80 West Lincoln Business Center PUD do show commercial and industrial development all the way to the north boundary of the property (Holdrege) with residential uses being shown to the north of Holdrege. The area north of Holdrege is not included in the study, and it was removed because of the intent to develop as residential. There is intent to develop all of the property on the west side of 48th all the way to Holdrege as industrial and commercial.

Francis trusts that there will not be a lot of corrugated metal buildings making up the development. Kalkowski indicated that they do not have design standards laid out yet, but that is not what she has heard mentioned at all as far as proposed uses.

There was no testimony in opposition.

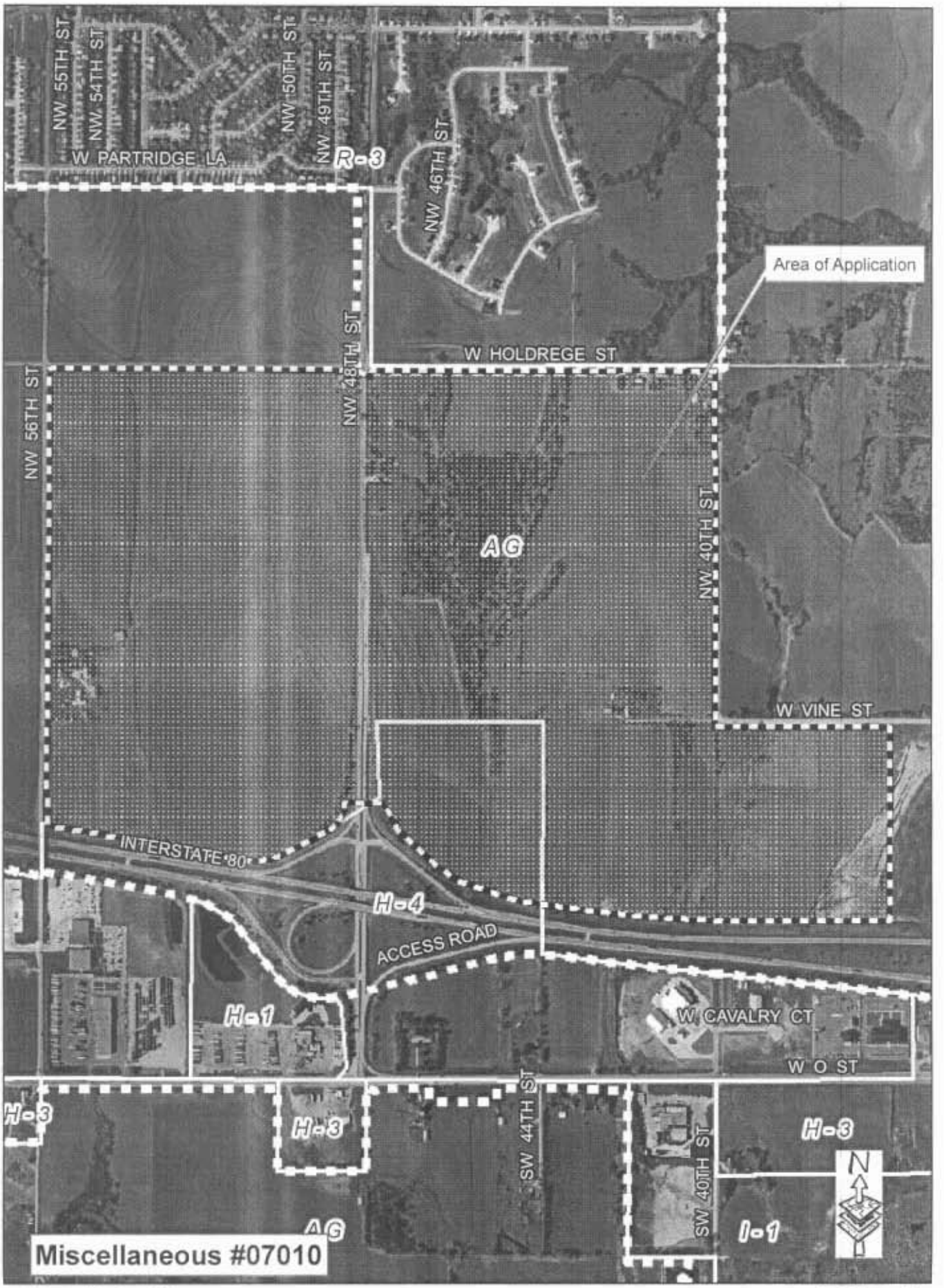
ACTION BY PLANNING COMMISSION: January 30, 2008

Larson moved a finding of reasonable presence of substandard and blighted conditions, seconded by Moline.

Esseks stated that he will support the motion. Because we are probably in or are facing an economic recession and need to maximize economic development opportunities, he will defer to the argument of Dave Landis that TIF is generally used as geographically broadly applied development tool and that the state Legislature voted to define it as such.

Carroll stated that he will support the motion because we need to be consistent with what was done on N. 56th Street.

Motion carried 8-0: Moline, Cornelius, Francis, Esseks, Larson, Taylor, Sunderman and Carroll voting 'yes'; Gaylor-Baird absent. This is a recommendation to the City Council.



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