FACTSHEET

TITLE: A Resolution requested by the Director of the Urban Development Department declaring the 1st and Cornhusker Highway Redevelopment Area as blighted and substandard, as determined by the 1st and Cornhusker Highway Redevelopment Area Blight & Substandard Determination Study.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/03/12
Administrative Action: 10/03/12

RECOMMENDATION: A finding of reasonable presence of substandard and blighted conditions (Miscellaneous No. 12008).

FINDINGS OF FACT:

1. This is a request to declare the 1st and Cornhusker Highway Redevelopment Area as blighted and substandard pursuant to Neb.Rev.Stat. § 18-2103. 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 consists of an estimated 78 acres, more or less, comprised of mobile home residential land use, generally bounded by Cornhusker Highway on the south, North 4th Street on the east, Adams Street on the north and North 1st Street on the west.

3. The staff recommendation to find that there is a reasonable presence of substandard and blighted conditions is based upon the “Analysis” as set forth on p.3-6, concluding that the 1st and Cornhusker Highway Redevelopment Area qualifies as substandard and blighted within the definition of the Nebraska Community Development Law, as determined by the 1st and Cornhusker Highway Redevelopment Area Blight and Substandard Determination Study. The Study is consistent with the redevelopment and revitalization activities identified in the 2040 Comprehensive Plan. The presentation by the Director of Urban Development is found on p.7-8.

4. Testimony in support by Tom Huston on behalf of the owners of the property is found on p.8-9, where, in response to the concerns raised by the Planning Commission relating to relocation of the mobile home owners/tenants, Huston advised that the property owners have no current plans to change the land use. This is an effort to go through a long term planning process for the highest and best use of the property at some point in the future, and that the mobile home owners/tenants will most likely qualify for relocation benefits.

5. There was no testimony in opposition.

6. On October 3, 2012, the Planning Commission agreed with the staff recommendation and voted 7-0 to find that there is a reasonable presence of substandard and blighted conditions in the 1st and Cornhusker Highway Redevelopment Area and that the area should be declared blighted and substandard (Miscellaneous No. 12008). See Minutes, p.10.

FACTSHEET PREPARED BY: Jean L. Preister

REVIEWED BY: Marvin Krout, Director of Planning

REFERENCE NUMBER: FS\CC\2012\MISC12008 Blight
PROJECT #: Miscellaneous No. 12008
1st and Cornhusker Highway Redevelopment Area Blight and Substandard Determination Study

PROPOSAL: The Urban Development Department has forwarded a request to review the 1st and Cornhusker Highway Redevelopment Area Blight and Substandard Determination Study and to recommend the Area to be declared substandard and blighted.

LOCATION: An area generally located north of Cornhusker Highway, south of Adams Street, east of N. 1st Street, and west of N. 4th Street.

LAND AREA: 78 acres, more or less

CONCLUSION: The consultant’s study determines that the 1st and Cornhusker Highway Redevelopment Area qualifies as substandard and blighted within the definition set forth in the Nebraska Community Development Law, NEB REV STAT §18-2103. The Substandard and Blight Determination Study is consistent with the redevelopment and revitalization activities identified in Lincoln-Lancaster County 2040 Comprehensive Plan.

RECOMMENDATION: Finding that there is a reasonable presence of substandard and blighted conditions in the 1st and Cornhusker Highway Redevelopment Area as per §18-2103 (11) Nebraska Revised Statutes.

GENERAL INFORMATION:
EXISTING ZONING: R-2 Residential and H-3 Highway Commercial District
EXISTING LAND USE: Mobile home parks

SURROUNDING LAND USE AND ZONING:
North: Single-family detached dwellings (R-3) and multi-family dwellings (R-4)
South: Oak Lake Park (P) and commercial uses (H-3)
East: Single-family detached dwellings, single-family attached dwellings, and duplexes (R-2) and I-180 interchange with Cornhusker Highway
West: Mobile home park and single-family detached dwellings (R-2), multi-family dwellings and vacant land (R-4), and West Lincoln Park (P).

ASSOCIATED APPLICATIONS:
CZ12029: Acentia Planned Unit Development (PUD) submitted September 19, 2012. A Comprehensive Plan Conformance for a redevelopment plan will be submitted and will accompany the PUD at Planning Commission and City Council.
COMPREHENSIVE PLAN SPECIFICATIONS:
The 2040 Lincoln and Lancaster County Comprehensive Plan identifies this area as Urban Residential, Commercial, and Green Space in the Future Land Use Plan. (p.1.9)

Preserve and enhance the character of key entry points and corridors into the City of Lincoln through enhanced landscaping and public art in rights-of-way, and respectful development of adjacent properties. (p. 4.7)

The area is along a “Secondary Entryway Corridor”. (p. 4.8)

Discourage auto-oriented strip commercial development and seek opportunities for residential mixed use redevelopment and/or transit oriented development of existing commercial strips. (p. 5.14)

Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety. (p. 5.14)

Mixed Use Redevelopment should: Target existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and more efficiently utilize existing infrastructure. (p. 6.2)

This area is shown as a Mixed Use Node on the Mixed Use Redevelopment Nodes and Corridors Map. (p. 6.5)

Mixed Use Redevelopment Nodes and Corridors should strive to locate: In proximity to planned or existing neighborhoods and community services, to facilitate access to existing community services or to address a deficiency by providing services such as grocery stores, childcare centers, and restaurants. (p. 6.6)

ANALYSIS:
1. This area is designated as Urban Residential, Commercial, and Green Space (for bike trail along east side of N. 1st). While shown in the future land use map as “commercial” and there is some H-3 commercial zoning, the southern portion of the site along Cornhusker Highway is a mobile home park.

2. Redevelopment in this blighted area should consider a mix of uses and proper transition and/or screening to the adjacent neighborhood. The owner has submitted a PUD for the site that includes a mix of commercial and residential uses. The PUD will be accompanied by a redevelopment plan for the area and will be heard together at Planning Commission and City Council.

3. This is a request to determine whether the 1st and Cornhusker Highway Redevelopment 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.

4. A private developer 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.

5. The area comprises approximately 78 acres. According to the land use categories identified in the Blight Study, approximately 67.0% is in mobile home use, 28.3% of the land is in street rights-of-way, and 4.7% is vacant developable land.
6. The Urban Development Department requests the determination study be reviewed by the Planning Commission for conformance with the Comprehensive Plan.

7. 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.

8. According to the Blight Study, the area qualifies as **substandard** because all four factors were found to have a reasonable or strong presence.
   1) Deterioration and dilapidation of structures is evident in 240 of the 275 structures (87%) (strong presence). (p. 21)
   2) Based on field evaluation 63 of 275 (22.9%) structures are over 40 years of age (reasonable presence). (p. 21)
   3) Inadequate provision for ventilation, light, air, sanitation, or open space is evidenced by the presence of 155 buildings in “deteriorating–major” and “dilapidated” condition; deteriorating site features such as parking lots, private streets, and open storm water drainage systems; and aging public utilities over 40 years old (strong presence). (p. 22).
   4) Presence of deteriorating and dilapidated structures as mentioned above; aging public utilities as mentioned above; fair to poor site conditions for 242 out of 323 (74.9%) parcels were in “fair” to “poor” condition. All of these factors are considered to endanger life or property due to fire (strong presence). (p. 24)

9. 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) Other environmental and blighting factors
   12) One of the following five 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.

10. The study found the following 10 blighting factors to be present to a strong extent in the study area:

1) 20 (7.3%) dilapidated structures, 135 (49.1%) deteriorating (major) structures, and 87 (31.6%) deteriorating (minor) structures. (p. 29)
2) Private drives serve the internal networks of both mobile home parks. There are only a few access points to public streets in the area. Nance Avenue is a gravel road. The sidewalk network is incomplete; the Woodlawn Estates mobile home park has no sidewalks at all. (p. 30)
3) The majority of the land was developed on Irregular Tracts without standard platting. (p. 31)
4) Insanitary or unsafe conditions due to age and quality of structures and aging public utilities. One water main tap serves both mobile home parks (p. 32)
5) 155 out of 323 parcels within the redevelopment area were rated as “deteriorating major” or “dilapidated”. (p. 33)
6) There are 237 different owners between the two mobile home parks and all of the mobile homes within each one. (p. 34)
7) 38 mobile homes are currently tax delinquent, but that is not considered substantial enough to be considered a contributing blight factor. (p. 35-36)
8) Defective or unusual conditions of title was not reviewed by the consultant. (p. 37)
9) The subdividing of this property does not meet current standards and provides poor access to the site. (p. 38)
10) Conditions which endanger life or property by fire and other causes is present due to the presence of 155 of the 275 buildings (56.4%) determined to be deteriorating or dilapidated, aging public utilities, and fair to poor overall site conditions. (p. 39-40)
11) Other environmental and blighting factors include functional and economic obsolescence of the existing mobile homes and vacant mobile home pad sites. (p. 41)
12) Additional blighting conditions: The area has had either stable or decreasing population based on the last two decennial censuses. (p. 42)

11. The study finds a reasonable to strong presence of four factors (dilapidation/deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, and the existence of conditions which endanger life or property by fire and other causes) that constitute an area as substandard within the study area, and out of 12 possible factors that constitute an area blighted, 10 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.

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

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: September 24, 2012

APPLICANT: David Landis, Director
Urban Development Department
555 S. 10th Street, Ste. 205
Lincoln, NE 68508

CONTACT: Wynn Hjermstad
Urban Development Department
555 S. 10th Street, Ste. 205
Lincoln, NE 68508
402-441-7606
whjermstad@lincoln.ne.gov
Members present: Hove, Sunderman, Gaylor Baird, Francis, Lust, Weber and Cornelius; Butcher absent.

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

There were no ex parte communications disclosed.

**Staff presentation:** David Landis of Urban Development, presented the findings of the study done by Hannah-Keelan at the request of the developer who ultimately wishes to obtain control of this area and consider it for redevelopment. This is a step to find that this is an area that meets the statutory definition of blighted and substandard under the Community Redevelopment Act. The area consists of 78 acres, about 275 structures, 273 of which are mobile homes, the average age of which is about 32 years, and a number are 40 years or older. Mobile homes do not have the same life as constructed homes. It means that there is a percentage of dilapidation in an area of over 50% of the structures. This is an area with very few sidewalks and access points to streets. The internal infrastructure to sewer and water is 40 years old and privately owned. In reviewing the four substandard tests, it has been found that all four are present in either substantial or significant amounts and of the 12 blighted factors, 10 of them are present.

Landis shared that he received a call from Richard McGinnis related to the presence of diverse ownership. Landis explained that redevelopment is hard to do if there are lots of parcels of land. So one of the factors to redevelopment is whether or not land is broken up into a lot of tracts. In this case, there are only two property owners so that is not considered diverse ownership, but there are 273 mobile homes, which is personal property, not real property. The study says there is a diversity of ownership because of all of the mobile home owners, but McGinnis’ argument is that inside the statute, ownership refers to land. It is true that whether or not they are to be considered owners, there is a significant disincentive to the redevelopment process when arrangements need to be made for 273 various tenants, and because of that, developers are likely to go some other place to develop. Landis indicated that he is happy to subtract the diversity of ownership from the list because it still meets the other statutory standards.

Landis advised that in the event the area is declared blighted and substandard by the City Council, he will be back before the Planning Commission at a future date with a redevelopment plan and a redevelopment agreement for the City Council to consider.

As part of the redevelopment process, Lust inquired whether we anticipate a benefit to the 273 mobile home owners. Landis stated that if this was a city project in which the city had a stake, the city does have standards that apply in the public sector which are determined by federal and state law to help with tenant relocation and the city would make payments to the tenants that are
dislocated. However, Landis does not believe those rules apply in the private sector. When a tenant is at the end of a tenancy, the landlord has the right to give notice and Landis did not know of a rule that requires a landlord to compensate the tenant.

Lust wondered whether the blight designation really benefits any of these people living in this condition or is it just a matter of property right that allows development to go forward and we are not looking towards the public interest of the people living there? Landis confirmed that for the area to develop, those tenants will be dispossessed. On the other hand, there are newer mobile home parks in Lincoln and their infrastructure is perhaps better designed. Perhaps the tenants could make arrangements to go to another mobile home park. He does not disparage either tenants or landlords, but it is not the case that the tenants are guaranteed or promised an improvement in their lot in life when their tenancy comes to an end. The property owner/landlord has the right to change the tenancy.

Lust suggested that mobile homes are unique in that they are personal property owned by the person living there. While we might have a landlord, we still might have 273 personal property owners facing the need for new sites for their old and dilapidated mobile home. Is there a plan for where they are to go? Landis stated that he would have to defer to the owner to answer that question, although he believes there is a landlord/tenant act and there is also a mobile home landlord/tenant act and they are not identical because there are different situations in each.

Francis assumed that the roads within the trailer park are private and that is the reason they have not been maintained properly. In other words, they are blighted because of lack of maintenance on the owner's part. Landis suggested that we can find those conditions in lots of places, referring to the Idylwild and 35th & Holdrege redevelopment area. He agreed that the internal infrastructure is private and maintained by the owners.

Weber assumes the tenants would have to sell the mobile homes or move them off themselves. Landis agreed. Weber observed that there are probably instances where the tenants are living right at their means as it is and it will be an additional cost to the mobile home owner.

Support

1. **Tom Huston** appeared on behalf of **Countryside Mobile Home Parks and Lincoln Mobile Home Parks**, the owners of the property. He agrees that the property qualifies for blighted and substandard conditions. He pointed out that this site is directly adjacent to the Northwest Corridor Redevelopment Area and probably should have been included in that redevelopment area to begin with.

Huston advised that the current property owners have no current plans to change the land use. They are trying to go through a long term planning process. The owners have been in communication with the mobile home tenants. His clients want to position the property for its highest and better use at some point in the future, given its location on two principal corridors of the city, and then ultimately at the end of November, there will be a PUD and Redevelopment Plan submitted and processed but it will not have a specific project at this point in time.
Huston does believe that the tenants will qualify for relocation benefits that are required under the Relocation Act, which is a federal act. Right now, to his recollection, his clients have indicated that the mobile home park is approximately 80% full. His clients own other such facilities in and around Lincoln where the tenants will have the right to relocate their units, and he presumes that they would be paid in the event of a displacement.

Huston reiterated that there is no current plan for any displacements. It is a long term perspective of how this property can be put to a higher and better use.

Francis wondered whether it is perceived that the property owners who own other mobile home parks would be willing to move the tenants’ mobile homes with little or no cost to free up the space for redevelopment. A lot of the people who live in these homes are on very limited income. Huston believes that issue will be covered by the federal regulations. Francis knows that there are some parks that will not allow mobile homes to come into their park past a certain age and she is sure some of these mobile homes are past that age. What happens to them? Huston did not have the answer. Any mobile home owner is going to have to go through their own calculation in terms of moving. The mobile home owners will have to make a decision on whether it is cost effective to move or otherwise dispose of the home.

Lust inquired as to what is included in relocation benefits. Huston suggested that would be a law opinion, but believes it may include tenant moving rights, with a statutory item of damages dependent upon the length of the lease remaining. There are several components. In some circumstances it can be upwards of $15,000 to $20,000. The benefits are paid by the owner. It is TIF eligible.

Weber inquired as to the typical length of lease. Huston stated that it starts with 12 months and automatically renews for an additional 12 months.

Of the 273 mobile homes, Hove asked whether any of them are owned by the owner of the property. Huston stated “no”. The primary reason that the blight declaration is sought is because of the dated and aged infrastructure. Every property owner needs to ask themselves that question – does it make sense to reinvest or redevelop? There comes a point where they have to renovate and upgrade and ask themselves whether there is a better use that can be made of the property.

There was no testimony in opposition.

Landis suggested that one of the elements of relocation rights is the differential between what you pay at the location you are in and what you pay at an equivalent successor location. For example, if you are living in a location that costs $250/month and you can’t find another that is equivalent at $250/month, but you find something at $325/month, that’s a difference of $75.00/month which could be paid for a period of up to 40 months as part of the relocation package. Landis also clarified that he would not disagree with the relocation rights cited by Mr. Huston.
Hove moved to approve the staff recommendation of a finding that there is a reasonable presence of substandard and blighted conditions, seconded by Francis.

Francis agrees that there are reasonable conditions here for finding substandard conditions for blight, and she is sympathetic to the owners of the mobile homes, but that is not before the Planning Commission. It is the blighted condition that is before us and she believes the owner is entitled to plan for the highest and best use of his land.

Gaylor Baird observed that there is a pretty clear set of criteria for making this decision and we’re 4 for 4 in the substandard and 10 of 12 in the other, so it is pretty clear that what we are being asked to determine is true.

Lust agrees that the Commission cannot reach any other conclusion with regard to the blighted and substandard conditions. She is just very sympathetic to the idea that when we start to undertake these projects, it seems that the overall intent of this process was probably to benefit the people living in the area, and this situation concerns her in that we are following the letter of the law but perhaps not the spirit of what was intended; however, she will voted for the blighted determination.

Motion carried 7-0: Hove, Sunderman, Gaylor Baird, Francis, Lust, Weber and Cornelius voting 'yes'; Butcher absent. This is a recommendation to the City Council.
Miscellaneous #12008
1st & Cornhusker Redevelopment Area