

CITY COUNCIL PROCEEDINGS

October 8, 2008

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on October 2nd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Ted Lukassen, Nick Hein, Bill Yindruck, and Bill Schatz, City Administrator Joe Johnson, Attorney Jim Birkel, and City Clerk-Treasurer Joan Kovar. Council member Bill Scribner was absent.

Also present were: Police Chief Stephen Sunday, Marianne Long and son Frankie, Darlene McClure, Marge Grubaugh, Jerry Kosch, Dr. Kaufmann, Jim & Mary Redler, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

Mayor Trowbridge informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and Resolution No. 2-2008 establishing rules and procedures for public participation at city council meetings.

The minutes of the September 10th / 17th, and the September 22, 2008 meetings of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Yindruck. Voting AYE: Council members Lukassen, Schatz, Smith, Yindruck, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets.

Darlene McClure stated that she had a tree removed from the parkway but when she submitted her bill for reimbursement she was advised there were no funds available. City Clerk Kovar stated that Street Superintendent Jim McDonald is on his new budget year and if she would resubmit her bill it would be paid next month.

Mayor Trowbridge asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Lukassen seconded the motion. Voting AYE: Council members Yindruck, Hein, Schatz, Lukassen, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried.

The Committee of the Whole meeting date was discussed. Chief of Police Lance Webster of Wayne, Nebraska will be the guest speaker and he is available on October 20 and

not October 27 when the meeting normally would be held. City Administrator Johnson would also like to schedule the meeting at the Library if possible. Mayor Trowbridge therefore scheduled the Committee of the Whole meeting for Monday, October 20, 2008, at 6:00 p.m. in the Hruska Memorial Library.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. There were no additional reports. Council member Lukassen made a motion to accept the Committee and Officer Reports as presented. Council member Hein seconded the motion. Voting AYE: Council members Smith, Yindrick, Schatz, Hein, and Lukassen. Voting NAY: None. Council member Scribner was absent. The motion carried.

Ordinance No. 1083 was introduced and passed on first reading on August 13, 2008, and passed on second reading September 10, 2008. Council member Schatz made a motion to pass Ordinance No. 1083 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1083 was passed on third and final reading as follows:

ORDINANCE NO. 1083

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A TRACT OF LAND LOCATED IN THE N $\frac{1}{2}$ OF THE NE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SECTION 18 T15N R3E OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, CONTAINING 14.79 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of land located in the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows:
Commencing at the southeast corner of said N $\frac{1}{2}$; thence westerly, 341.60 feet, on the south line of said N $\frac{1}{2}$, to the Point of Beginning, said Point being the southwest corner of a parcel of land conveyed in Microfilm Book 81 page 521; thence continuing westerly, 977.83 feet, on the last described line, to the southwest corner of said N $\frac{1}{2}$; thence northerly, 658.98 feet, to the northwest corner of said N $\frac{1}{2}$; thence easterly, 979.92 feet, on the north line of said N $\frac{1}{2}$; thence southerly, 657.35 feet, to the Point of Beginning, containing 14.79 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City water will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and

the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1 (a) above.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Ordinance No. 1085 was introduced and passed on first reading on August 13, 2008, and passed on second reading September 10, 2008. Council member Schatz stated that he wished Alan Zavodny was present so the Council was certain that he really wanted this parcel annexed. Council member Schatz, therefore, made a motion to table Ordinance No. 1085. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Yindrick, Smith,

Lukassen, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1085 was tabled.

ORDINANCE NO. 1085

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION TWELVE (12), TOWNSHIP FIFTEEN (15), NORTH, RANGE TWO (2), EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, LYING EAST OF THE RIGHT-OF-WAY OF THE CHICAGO, BURLINGTON & QUINCY RAILROAD TRACK, CONSISTING OF APPROXIMATELY 128.63 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City water will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this 8th day of October, 2008.

Tabled
Mayor Dana Trowbridge

Tabled

City Clerk Joan E. Kovar

Ordinance No. 1086 was introduced and passed on first reading on August 13, 2008, and passed on second reading September 10, 2008. Council member Schatz made a motion to pass Ordinance No. 1086 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Hein abstained. Council member Scribner was absent. The motion carried and Ordinance No. 1086 was passed on third and final reading as follows:

ORDINANCE NO. 1086

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6th P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF. DAVID CITY, NEBRASKA:

SECTION 1. It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;
- (b) Police, fire, mad snow removal benefits will be immediately available thereto, and City water service will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the Offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water service will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED and APPROVED this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

EXHIBIT "A"

Northwest Quarter (NW¹/₄) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes,

AND LESS THE FOLLOWING THREE (3) TRACTS OF REAL ESTATE:

TRACT I: A tract of land located in the Northwest Quarter (NW¹/₄) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast Comer of said Northwest Quarter; thence westerly, 41.0 feet, on the south line of said Northwest Quarter, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly highway right-of-way line, to the point of beginning, said point being 40.08 feet west of the east line of said Northwest Quarter; thence westerly, 340.00 feet, at a right angle to the last described line; thence northerly, 385.00 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 340.00 feet, at a right angle to the last described line, to a point on the westerly right-of-way line of Nebraska Highway Nebraska 15; thence southerly, 385.00 feet, on said westerly right-of-way line to the point of beginning, containing 3.00 acres, more or less.

AND

TRACT II: A parcel of land located in a part of the East Half of the Northwest Quarter of Section 18, Township 15 North, Range 3, East of the 6th P.M., Butler County, Nebraska, being more particularly described as follows: Commencing at the Northeast Comer of said Northwest Quarter; thence N90°00'00"W (assumed bearing) on the North Line of said Northwest Quarter, a distance of 89.01 feet to a point on the westerly right-of-way line of State Highway No. 15, said point also being the point of beginning; thence S06°11'15"E on said westerly right-of-way line, a distance of 221.29 feet; thence N90°00'00"W parallel with said North Line, a distance of 253.85 feet; thence N00°00'00"E perpendicular to said North Line, a distance of 220.00 feet to a point on said North Line; thence S90°00'00"E on said North Line, a distance of 230.00 feet to the point of beginning,

containing 1.22 acres, more or less.

AND

TRACT III: A tract of land located in the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows:
Commencing at the SE corner of said NW $\frac{1}{4}$, thence westerly, 41.0 feet, on the South line of said NW $\frac{1}{4}$, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line; thence westerly 325.00 feet, at a right angle to the last described line; thence southerly, 321.57 feet, parallel with said westerly Highway right-of-way line, to a point on the South line of said NW $\frac{1}{4}$, thence easterly, 325.00 feet, on the South line of said NW $\frac{1}{4}$, to the point of beginning, containing 2.40 acres,

ALSO EXCEPT THE RAILROAD RIGHT-OF-WAY.

Ordinance No. 1087 was introduced and passed on first reading on August 13, 2008, and passed on second reading September 10, 2008. Council member Schatz made a motion to pass Ordinance No. 1087 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1087 was passed on third and final reading as follows:

ORDINANCE NO. 1087

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A TRACT OF REAL ESTATE LOCATED IN THE NE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SECTION 18, T15N, R3E OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, CONSISTING OF APPROXIMATELY 1.07 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1: It is hereby found and determined by the Mayor and City Council that: A tract of real estate located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the northeast corner of said SW $\frac{1}{4}$; thence westerly, 241 feet, on the north line of said SW $\frac{1}{4}$, to the Point of Beginning; thence southerly, 145 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 27 feet, parallel with the north line of said SW $\frac{1}{4}$; thence southerly, 256.14 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of a parcel

of land conveyed in Microfilm Book 81 page 521; thence westerly, 126 feet, to the northwest corner of said parcel; thence northerly, 401.35 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of said SW $\frac{1}{4}$; thence easterly, 99 feet, to the Point of Beginning, containing 1.07 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz made a motion to advance to agenda item #14 - Recess the City Council meeting and convene as the Community Development Agency of the City of David City, Nebraska, for forwarding the proposed redevelopment plan to the Planning Commission. Council

member Yindrick seconded the motion. Voting AYE: Council members Smith, Hein, Lukassen, Yindrick, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

As the proposed redevelopment plan was not received, Council member Schatz made a motion to table recessing the City Council meeting to convene as the Community Development Agency of the City of David City, Nebraska, for forwarding the proposed redevelopment plan to the Planning Commission. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Smith, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to advance to agenda item #15 - Consideration of Resolution No. 29-2008 to combine parcels of property owned by Timppte, Inc., legally described as: Schmid's Addition, David City, Block 1, Lot 1, Lots 3 - 13, containing 22.69 acres and the vacated portion of "S" Street (50 x 647), containing .74 acres and a tract of land located in the N ½ of the NE ¼ of the SW ¼ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, containing 14.79 acres. Council member Hein seconded the motion. Voting AYE: Council members Smith, Yindrick, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Resolution No. 29 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 29 - 2008 was passed and approved as follows:

RESOLUTION NO. 29 - 2008

WHEREAS, Timppte Trailer Co., as the owner of two parcels of land described below, and attached as Exhibit A, has filed a request to combine the parcels to form one lot.

Property A: Schmid's Addition, David City, Block 1, Lot 1, Lots 3-13, containing 22.69 AC **and** the vacated portion of "S" Street (50 x 647), containing .74 AC, **and**

Property B: a tract of land located in the N½ of the NE¼ of the SW¼ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, containing 15.53 AC;

WHEREAS, there were no objections expressed concerning combining the two parcels of land.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Timppte Trailer Co., to combine two parcels of land located in David City, Butler County, Nebraska, legally described on Exhibit A, to form one lot, is hereby approved.

Dated this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



Legal Description:

David City Lot 1, Lots 3-13 Blk 1
22.69 AC Schmids Add - And
 $\frac{1}{2}$ vacated S St (50 x 647) = .74AC
Total Acres 23.43



Legal Description:

18 15 3 PT NE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.53 AC
The tract of land located in the N $\frac{1}{2}$ of
the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18
T15N R3E of the 6th P.M., Butler
County, Nebraska, described as
follows:

Commencing at the southeast corner
of said N $\frac{1}{2}$; thence westerly, 341.60
feet, on the south line of said N $\frac{1}{2}$, to
the Point of Beginning, said Point
being the southwest corner of a
parcel of land conveyed in Microfilm
Book 81 page 521; thence
continuing westerly, 977.83 feet, on
the last described line, to the
southwest corner of said N $\frac{1}{2}$; thence
northerly, 658.98 feet, to the
northwest corner of said N $\frac{1}{2}$; thence
easterly, 979.92 feet, on the north
line of said N $\frac{1}{2}$; thence southerly,
657.35 feet, to the Point of
Beginning, containing 14.79 acres,
more or less,

Council member Schatz made a motion to advance to agenda item #16 - Consideration of Resolution No. 30-2008 Resolution No. 30-2008 to sub-divide the property listed above to form two parcels of property as follows: Property A: a tract of land located in the E ½ of the SW ¼ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, and Property B: All of Lots 1, 3, 4, 5, 6, and 7; the south 73 feet of Lot 8; the west 254 feet of the north 70 feet of Lot 8; the west 254 feet of Lots 9, 10, 11, 12, and 13; and that portion of vacated "S" Street lying north and adjacent to Lot 13; all in Block 1, Schmid's Addition to David City, Butler County, NE, containing 16.70 acres, more or less. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Lukassen, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Resolution No. 30 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 30 - 2008 was passed and approved as follows:

RESOLUTION NO. 30 - 2008

WHEREAS, Timppte Trailer Co., as the owner of a parcel of land has filed a request to divide the parcel into two parcels as follows:

Property A: a tract of land located in the E ½ of the SW ¼ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at the northwest corner of the E½ of said SW¼; thence easterly, 979.92 feet, on the north line of said SW¼; thence southerly, 657.35 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15, to a point on the north line of Schmid's Addition of David City; thence westerly, 330 feet, more or less, on the north line of said Schmid's Addition, to a point on the northerly extension of the east line of Block 1 of said Schmid's Addition; thence southerly, 866.27 feet, to the southeast corner of the north 70 of Lot 8 of said Block 1; thence westerly, 393.54 feet, parallel with the west line of said Block 1, to a point on the north line of said Schmid's Addition; thence westerly, 254 feet, to the southwest corner of the N½ of the NE¼ of said SW¼; thence northerly, 658.98 feet, to the Point of Beginning, containing 22.64 acres, more or less, **and**

Property B: all of Lots 1, 3, 4, 5, 6, and 7; the south 73 feet of Lot 8; the west 254 feet of the north 70 feet of Lot 8; the west 254 feet of Lots 9, 10, 11, 12, and 13; and that portion of vacated "S" Street lying north and adjacent to Lot 13; all in Block 1, Schmid's Addition to David City, Butler County, Nebraska, containing 16.70 acres, more or less;

WHEREAS, there were no objections expressed concerning forming the two parcels of land.

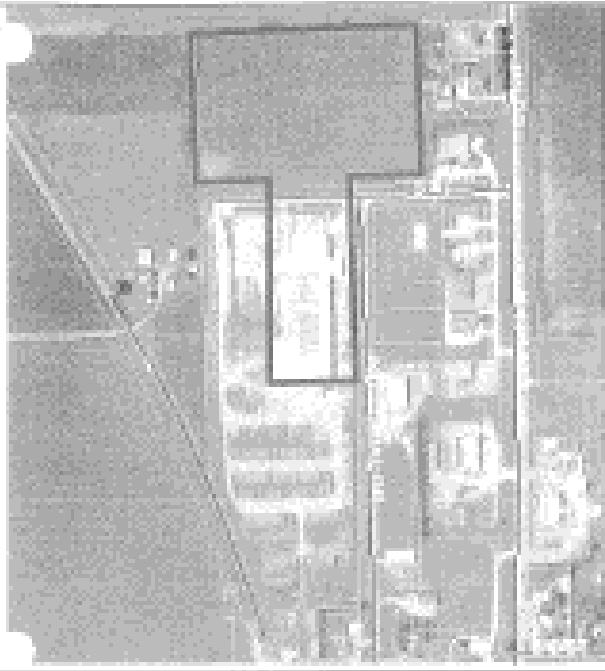
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Timppte Trailer Co., to divide their property into two parcels of land located in David City, Butler County, Nebraska, legally described on Exhibit B, is hereby approved.


Dated this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

EXHIBIT B

PROPERTY A	
	<p>LEGAL DESCRIPTION:</p> <p>A tract of land located in the E 1/2 of the SW 1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows:</p> <p>Beginning at the northwest corner of the E 1/2 of said SW 1/4 ; thence westerly, 979.92 feet, on the north line of said SW 1/4 ; thence southerly, 437.35 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15, to a point on the north line of Schmid's Addition of David City; thence westerly, 330 feet, more or less, on the north line of said Schmid's Addition, to a point on the northerly extension of the east line of Block 1 of said Schmid's Addition; thence southerly, 466.27 feet, to the southeast corner of the north 70 of Lot 8 of said Block 1; thence westerly, 303.54 feet, parallel with the west line of said Block 1, to a point on the north line of said Schmid's Addition; thence westerly, 254 feet, to the southwest corner of the N 1/2 of the NE 1/4 of said SW 1/4 ; thence northerly, 448.98 feet, to the Point of Beginning, containing 22.64 acres, more or less.</p>

PROPERTY B	
	<p>LEGAL DESCRIPTION:</p> <p>All of Lots 1, 3, 4, 5, 6, and 7; the south 33 feet of Lot 8; the west 254 feet of the north 70 feet of Lot 8; the west 254 feet of Lots 9, 10, 11, 12, and 13; and that portion of vacated S Street lying north of and adjacent to Lot 13; all in Block 1, Schmid's Addition to David City, Butler County, Nebraska, containing 16.70 acres, more or less.</p>

Council member Schatz made a motion to table agenda item #12 to the end of the meeting, but prior to going into executive session, and prior to agenda item #13. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Lukassen, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to table agenda item #13 to the end of the meeting, but prior to going into executive session. Council member Hein seconded the motion. Voting AYE: Council members Smith, Lukassen, Yindrick, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Resolution No. 31 - 2008 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Smith, Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 31 - 2008 was passed and approved as follows:

RESOLUTION NO. 31 - 2008

WHEREAS, Gary and Louise Niemann, have filed a request to combine their two parcels of land, described as: A tract of land located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., Butler County, Nebraska, legally described as follows:

Parcel 1: Commencing at the northeast corner of said SW $\frac{1}{4}$; thence westerly, 41.0 feet, on the north line of said SW $\frac{1}{4}$, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence southerly, 145.00 feet, on said westerly Highway right-of-way line, to the Point of Beginning; thence continuing southerly, 256 feet, more or less, on said westerly Highway right-of-way line, to a point 256.0 feet north of the south line of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence westerly, 173.0 feet, parallel with the south line of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence northerly, 256.0 feet, more or less, parallel with the east line of said SW $\frac{1}{4}$, to a point 145.00 feet south of the north line of said SW $\frac{1}{4}$; thence easterly, 173 feet, more or less, parallel with the north line of said SW $\frac{1}{4}$, to the Point of Beginning, and all that parcel conveyed to the State of Nebraska, for Highway purposes, lying east of, and adjacent to, the above described tract of land.

Parcel 2: Commencing at the northeast corner of said SW $\frac{1}{4}$; thence westerly, 241 feet, on the north line of said SW $\frac{1}{4}$, to the Point of Beginning; thence southerly, 145 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 27 feet, parallel with the north line of said SW $\frac{1}{4}$; thence southerly, 256.14 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of a parcel of land conveyed in Microfilm Book 81 page 521; thence westerly, 126 feet, to the northwest corner of said parcel; thence northerly, 401.35 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of said SW $\frac{1}{4}$; thence easterly, 99 feet, to the Point of Beginning, containing 1.07 acres, more or less.

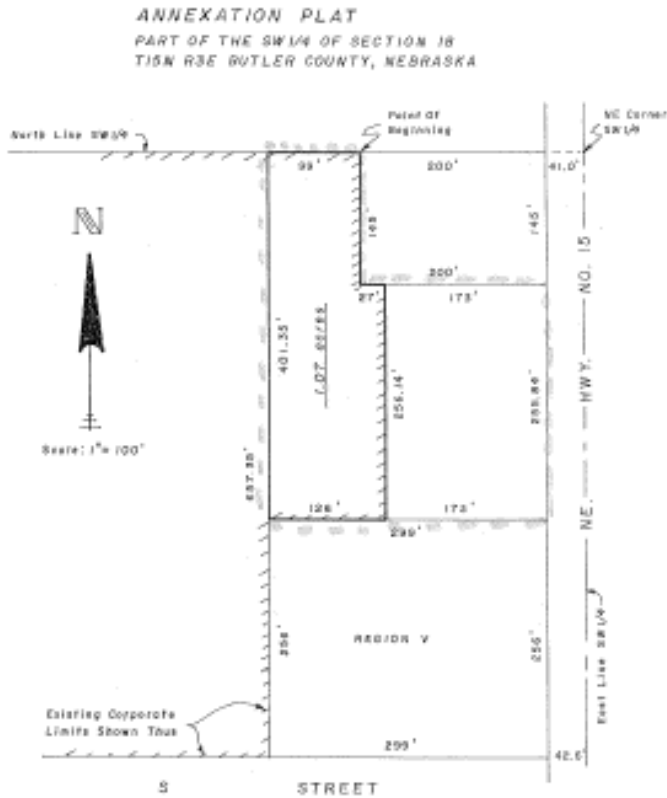
WHEREAS, there were no objections expressed concerning combining the above legally described parcels of land, all located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., Butler County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Gary & Louise Niemann to combine their parcels listed above, both located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., Butler County, Nebraska, to form one parcel, is hereby approved.

Dated this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



Council member Schatz made a motion to designate 1st National Bank of Omaha - David City Branch; U.S. Bank - David City Branch; Union Bank - David City Branch; and Bank of the Valley - David City Branch; as the Depository Banks for the City of David City/David City Utilities for fiscal year October 1, 2008 thru September 30, 2009. Council member Hein seconded the motion. Voting AYE: Council members Smith, Lukassen, Yindrick, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Ordinance No. 1094 and made a motion to amend Ordinance No. 1094 by adding "by the Planning Commission" to the end of #9 which currently states "On owned property the bond is to be determined on an individual basis". Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1094 on the third and final reading as amended. Council member Smith seconded the motion. Voting AYE: Council members Hein, Lukassen, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1094 was passed and adopted as follows:

ORDINANCE NO. 1094

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 8: SUPPLEMENTAL REGULATIONS, SECTION 8.02.04 APPLICATION TO DEVELOP A TOWER, #8 AND #9, PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

Section 1. That #8 and #9 of Section 8.02.04 Application to Develop a Tower, of Article 8: Supplemental Regulations, of the Zoning Ordinance No. 1060 be amended to read as follows:

8. A performance bond in the amount of \$50,000 dollars for the expenses of removal and disposal of the tower on leased property.
9. On owned property the bond is to be determined on an individual basis by the Planning Commission.

Section 2. That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 8th day of October, 2008

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Hein made a motion to enter into an interlocal agreement with the Upper Big Blue Natural Resources District and the Lower Platte North Natural Resources District to update the engineering for the Northwest Drainage Project. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Hein, and Lukassen. Voting NAY: None. Council member Scribner was absent. The motion carried.

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (this "Agreement") is made and entered into by and among the Upper Big Blue Natural Resources District, hereafter referred to as UBBNRD, Lower Platte North Natural Resources District, hereafter referred to as LPNNRD, and David City, Nebraska, hereafter referred to as CITY, all of which are Political Subdivisions of the State of Nebraska, hereafter referred to collectively as the PARTICIPANTS.

RECITALS

- A. Art. XV, § 8, Neb. Const. and Neb. Rev. Stat. §§ 13-801 to 13-827 (1991) authorize any two or more public agencies, which include natural resources districts and cities, to enter into Interlocal Agreements with one another for joint or cooperative action of any power or powers, privileges or authorities exercised or capable of exercise individually by such public agencies, in furtherance of such joint or cooperative action with such powers as such Interlocal Agreement shall specify.
- B. Residents of the CITY have experienced flood damage due to poor drainage and will continue to experience flood damage in the future unless the drainage is improved.
- C. Each Participant hereto has the power and authority to enter into agreements with other Political Subdivisions of the State of Nebraska for the purpose of constructing drainage improvements.
- D. The Participants desire to enter into this Agreement pursuant to which the Participants, among other objectives, will cooperate mutually to plan, design and construct drainage improvements, including drainage ditch grading and widening, culvert improvements, construction of detention basins and grade control structures, to be

located in and adjacent to the CITY, hereafter called the PROJECT.

E. The Participants desire to enter into this Agreement, in order to set out the duties and responsibilities of each party with respect to the Project.

NOW, THEREFORE, in consideration of the above recitals and mutual promises and covenants contained herein, the Participants mutually agree as follows:

ARTICLE I
OBJECTIVES AND PURPOSES

Section 1.01 The objectives and purposes of this Agreement are to carry out those public powers, duties and obligations of the governing bodies of the Participants relating to the PROJECT, without creating a joint or separate entity.

ARTICLE II
TERM OF AGREEMENT

Section 2.01 This Agreement shall initially become effective and binding upon its execution by all of the undersigned Participants and shall continue, unless terminated earlier as provided herein, until December 30, 2010.

Section 2.02 This Agreement may be terminated during the initial term of this Agreement upon the written consent of all of the Participants.

Section 2.03 The initial term of this Agreement may be extended by written consent of all of the Participants.

Section 2.04 The CITY's responsibility for the operation, maintenance and repair of the Project as set forth in ARTICLE V will survive this Agreement.

ARTICLE III
RESPONSIBILITIES OF UPPER BIG BLUE NRD

Section 3.01 The UBBNRD will serve as PROJECT Engineer on the PROJECT for the purpose of providing planning, design, construction drawings, construction staking, construction inspection, and construction contract management.

Section 3.02 The UBBNRD shall determine the cost of the engineering, and shall send an itemized statement of such costs to the CITY and the LPNNRD.

Section 3.03 The UBBNRD will be responsible for twenty five percent of engineering costs, not to exceed \$12,750.

ARTICLE IV
RESPONSIBILITIES OF THE LOWER PLATTE NORTH NRD

Section 4.01 The LPNNRD will reimburse the UBBNRD for twenty five percent of engineering costs, not to exceed \$12,750, and shall pay such costs within 30 days of the receipt of the itemized statement referred to in Section 3.02 above.

ARTICLE V
RESPONSIBILITIES OF DAVID CITY

Section 5.01 The CITY will act as PROJECT SPONSOR and will be responsible for obtaining all permissions of ingress and egress on private property, obtaining all rights-of-way and land rights including water storage and flowage easements, property boundary survey costs, legal fees, permits, construction and construction costs.

Section 5.02 The CITY will complete construction of the PROJECT within three years from the completion of construction drawings and will be responsible for the permanent operation, maintenance and repair of the PROJECT after completion of construction.

Section 5.03 The CITY will reimburse the UBBNRD for fifty percent of engineering costs, not to exceed \$25,500, and shall pay such costs within 30 days of the receipt of the itemized statement referred to in Section 3.02 above. The CITY further agrees that if construction of the PROJECT is not completed within three years from the completion of construction drawings, the CITY shall reimburse both the UBBNRD and LPNNRD for their respective shares of actual engineering cost.

Section 5.04 City shall indemnify, defend and save UBBNRD and/or LPNNRD and its agents, employees, officers and directors harmless from all loss, damages, liability, costs or expenses, including but not limited to, attorney fees, which UBBNRD and/or LPNNRD, its agents, employees, officers and directors may pay or become obligated to pay because of any claim or assertion of liability arising or alleged to have arisen out of any act or omission of any of the Participants, their agents, contractors, subcontractors, servants, employees, licensees or invitees as a result of or arising out of the duties, responsibilities or performance by any of the Participants of this Agreement.

ARTICLE VI POWERS

Section 6.01 The Participants understand and agree that this Agreement is not intended to, nor does it, create a partnership, joint venture or any other type of similar relationship which may give rise to joint and several liability.

Section 6.02 The CITY shall have all the powers, including the power to make and execute contracts and other instruments necessary or convenient to the exercise of its powers to obtain land rights and perform construction necessary to achieve the stated objectives and purposes of the PROJECT

Section 6.03 The UBBNRD shall have all the powers, including the power to make and execute contracts and other instruments necessary or convenient to the exercise of its powers to perform planning and engineering consistent with the stated objectives and purposes of the PROJECT on behalf of the Participants.

Section 6.04 The UBBNRD shall be authorized to utilize its staff and equipment to perform engineering and administrative tasks necessary to carrying out its responsibilities.

Section 6.05 The LPNNRD shall be authorized to utilize its staff to perform administrative tasks necessary to carrying out its responsibilities.

Section 6.06 The CITY shall be authorized to utilize its staff and equipment to obtain land rights including water storage and flowage easements, and to perform construction, operation and maintenance tasks necessary to carrying out its responsibilities.

Section 6.07 The PARTICIPANTS shall have such other powers as are permitted to them under the Interlocal Cooperation Act which are necessary and proper for the achievement of the

stated objectives and purposes as set forth by this AGREEMENT.

ARTICLE VII
AMENDMENTS

Section 7.01 Any PARTICIPANT may propose an amendment to this AGREEMENT by filing such proposed amendment with the chairperson of the CITY Council, who shall immediately forward copies thereof to the PARTICIPANTS, provided that no amendment shall, directly or indirectly, affect or impair any contracts or agreements agreed upon in writing prior to the effective date of such amendment.

Section 7.02 In voting on any amendment, each PARTICIPANT shall have one vote. If two-thirds of the PARTICIPANTS approve an amendment, as evidenced by resolutions of the respective governing bodies of the PARTICIPANTS, such amendment will become effective 30 days after approval by the governing bodies. Abstentions shall be counted as negative votes.

ARTICLE VIII
EXECUTION

This AGREEMENT will be executed in triplicate by the PARTICIPANTS and each copy shall be considered as an original, with the understanding that the AGREEMENT becomes effective as and when each of the PARTICIPANTS executes a copy. All of the PARTICIPANTS shall be bound to the same extent and purpose as if all such PARTICIPANTS had simultaneously joined in the execution of a single master copy.

IN WITNESS WHEREOF, each of the PARTICIPANTS has caused this AGREEMENT to be executed by its duly authorized officer as of the date and year shown below.

UPPER BIG BLUE NATURAL RESOURCES DISTRICT

_____ Dated _____, 2008
Chairperson

LOWER PLATTE NORTH RESOURCES DISTRICT

_____ Dated _____, 2008
Chairperson

CITY OF DAVID CITY

_____ Dated _____, 2008
Mayor

City Administrator Johnson stated that he would like the Zavodny property annexed as it is included in the Blight and Substandard Area. Therefore, Council member Hein made a motion to re-consider agenda item #9 which was tabled - Consideration of Ordinance No. 1085 to extend the boundaries and include within the corporate limits of, and to annex to, the City of David City, Nebraska, part of the Southeast Quarter (SE ¼) of Section Twelve (12), Township Fifteen (15), North, Range Two (2), East of the 6th p.m., Butler County, Nebraska, lying east of the right-of-way of the Chicago, Burlington & Quincy Railroad Track, consisting of approximately 128.63 acres, more or less. Council member Yindrick seconded the motion. Voting AYE: Council members Lukassen, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1085 on the third and final reading. Council member Yindrick seconded the motion. Voting AYE: Council members Hein, Smith, Lukassen, Yindrick, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1085 was passed on 3rd and Final reading as follows:

ORDINANCE NO. 1085

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION TWELVE (12), TOWNSHIP FIFTEEN (15), NORTH, RANGE TWO (2), EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, LYING EAST OF THE RIGHT-OF-WAY OF THE CHICAGO, BURLINGTON & QUINCY RAILROAD TRACK, CONSISTING OF APPROXIMATELY 128.63 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City water will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this 8th day of October, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Mayor Trowbridge declared a break at 7:55 p.m.. The meeting resumed at 8:15 p.m..

Mayor Trowbridge declared the Public Hearing open at 8:15 p.m. to consider designating particular real estate within the corporate boundaries of the City as Blight and Substandard. City Administrator Joe Johnson presented the proposed resolution, Attachment "A" which is titled: Blight and Substandard Determination Study for Area Referred to as The North Redevelopment Area, and a map indicating the blight and substandard area. There being no further comments, Mayor Trowbridge declared the Public Hearing closed at 8:17 p.m.

Council member Schatz introduced Resolution No. 28-2008 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Smith, Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 28 - 2008 was passed and approved as follows:

RESOLUTION NO. 28-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, MAKING FINDINGS AND DECLARING PORTIONS OF THE CITY TO BE BLIGHTED AND SUBSTANDARD PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT ACT; ORDERING PUBLICATION OF NOTICE AND OTHER MATTERS.

WHEREAS, it is desirable and in the public interest that the City of David City, Nebraska, a municipal corporation and City of second class, undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, Chapter 18, Article 21, Nebraska Reissue Revised Statute of 1942, as amended, known as the Community Development Law, is the Urban Renewal and Redevelopment Law for the State of Nebraska and prescribes the requirements and procedures for the planning and implementation of urban redevelopment projects; and

WHEREAS, the City in accordance with the laws of the State of Nebraska applicable to cities of the second class has duly prepared and approved a general plan for the development of the City known as its Comprehensive Plan, all as required by Section 18-2110, R.R.S. 1943; and

WHEREAS, the Planning Commission of the City has recommended that the area described in Attachment "A", "Blight and Substandard Determination Study for Area Referred to as the North Redevelopment Area" be declared blighted and substandard and in need of redevelopment; and

WHEREAS, this City Council has held a public hearing, after notice as required by Sections 18-2109 and 18-2115, R.R.S 1943 and has received and duly considered evidence relating to the present condition of the areas as shown and described on Attachment "A"; and

WHEREAS, Section 18-2109, R.R.S. 1943, as amended, required that, prior to the preparation by the City of a redevelopment plan for a redevelopment project, this Council as governing body of the City, by resolution, find and determine that the area is a substandard and blighted area as defined in said urban Renewal and Redevelopment law, and in need of redevelopment; and

WHEREAS, the evidence demonstrates that said area as shown and described on Attachment "A" constitutes a substandard and blighted area as defined in said Community Development Law, which area is in need of redevelopment;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

1. That it is hereby found and determined that the area shown and described on Attachment "A", constitutes a substandard and blighted area as defined by Section 18-2103, R.R.S. 1943, as amended, and that said area is in need of redevelopment.

2. That it is hereby found and determined that a substandard and blighted condition exists as set forth and discussed in Attachment "A", "Blight and Substandard Determination Study for Area Referred to as the North Redevelopment Area" by Northeast Nebraska Economic Development District.

3. That such substandard and blighted condition is beyond the remedy and control solely by 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 Community Development Law. The elimination of said substandard and blighted condition under the authority of the Community Development Law is found to be a public purpose and in the public interest.

4. That it is hereby found and determined that said area is an eligible site for an urban redevelopment project under the provisions of Chapter 18, Article 21, Nebraska Revised Statutes of 1943, as amended.

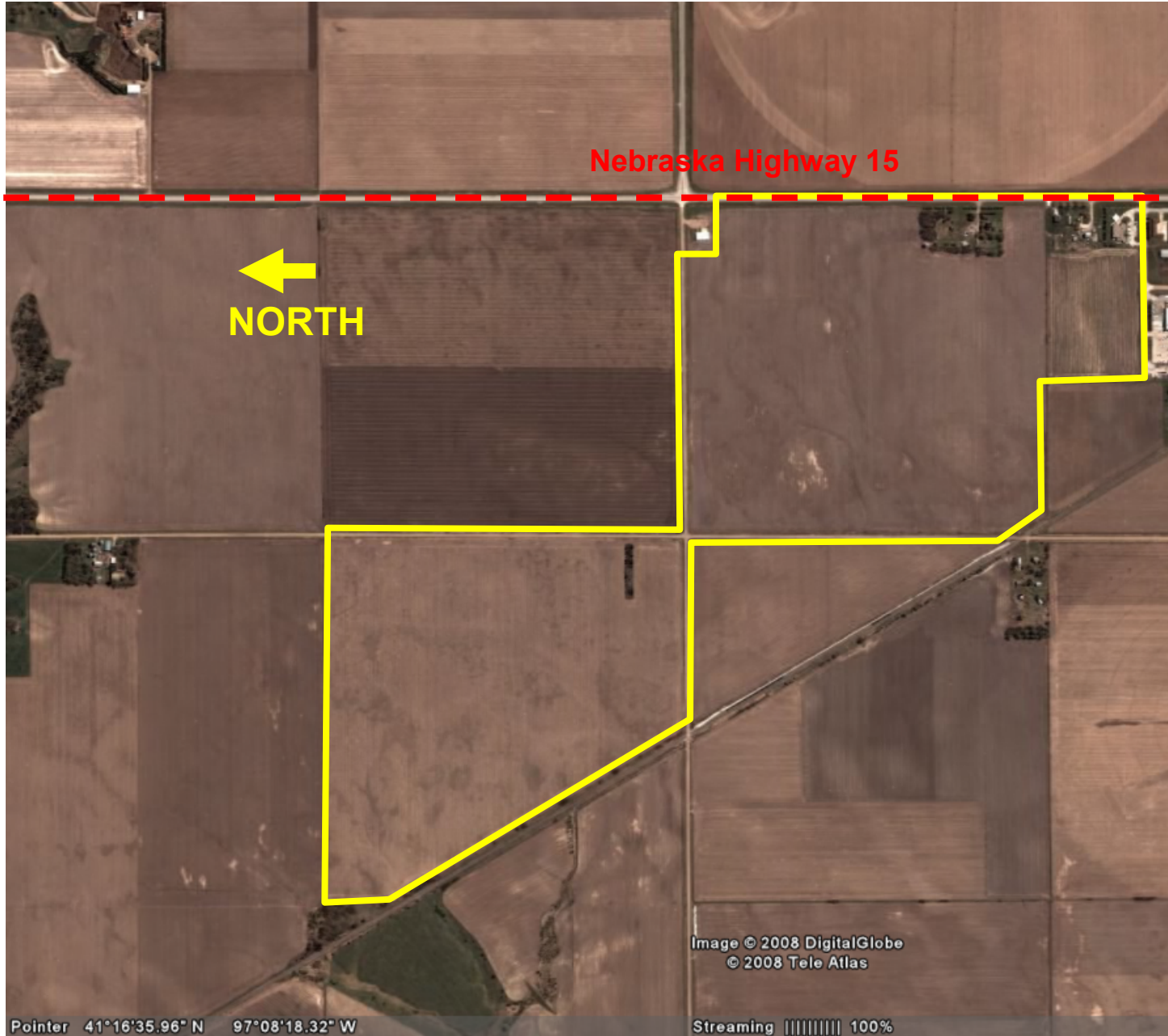
Passed and approved this 8th day of October, 2008.

BY _____
Mayor Dana Trowbridge

ATTEST:

Joan E. Kovar, City Clerk

City of David City, Nebraska Blight and Substandard Map



City of David City, Nebraska

Blight and Substandard Determination Study for Area Referred to as The North Redevelopment Area

August 5, 2008

Prepared by:
Northeast Nebraska Economic
Development District

Executive Summary

The purpose of this Study is to determine if all or part of the designated study area has deteriorated and become substandard and blighted according to the Community Development Law established in Nebraska Statute 18-2102. See page 4.

Community Development Law

18-2102. Community Development Law; purpose. It is hereby found and declared that there exist, in cities of all classes and villages of this state, areas which have deteriorated and become substandard and blighted because of the unsafe, unsanitary, inadequate, or overcrowded condition of the dwellings therein, or because of inadequate planning of the area, or excessive land coverage by the buildings thereon, or the lack of proper light and air and open space, or because of the defective design and arrangement of the buildings thereon, or faulty street or lot layout, or congested traffic conditions, or economically or socially undesirable lands uses. Such conditions or a combination of some or all of them have resulted and will continue to result in making such areas economic or social liabilities harmful to the social and economic well-being of the entire communities in which they exist, needlessly increasing public expenditures, imposing onerous municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of municipalities, aggravating traffic problems, substantially impairing or arresting the elimination of traffic hazards and the improvement of traffic facilities, and depreciating general community-wide values. The existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency, and for the maintenance of adequate police, fire, and accident protection and other public services and facilities. These conditions are beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided. The elimination of such conditions and the acquisition and preparation of land in or necessary to the renewal of substandard and blighted areas and its sale or lease for development or redevelopment in accordance with general plans and redevelopment plans of communities and any assistance which may be given by any state public body in connection therewith are public uses and purposes for which public money may be expended and private property acquired. The necessity in the public interest for the provisions of the Community Development Law is hereby declared to be a matter of legislative determination.

Blighted area shall mean 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, unsanitary or unsafe condition, 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 contributes 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) that the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted.

Substandard areas shall mean 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 over crowding, 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, and is detrimental to the public health, safety, morals, or welfare.

Objective Criteria

State statute establishes a series of five quantitative or "objective" criteria. An area must meet at least one of these initial criteria.

- *Underemployment.* The qualifying condition is an unemployment rate in the designated area that is at least 120% of the state or national average. Block group data from the 2000 Census, as well as subsequent geographic area studies available through the Nebraska Department of Labor, were utilized to determine qualifying areas under this standard.
- *Average age of residential or commercial units in the area.* The qualifying condition is an average age that is at least forty (40) years old.
- *Per capita income.* The qualifying condition is a per capita income for the area that is lower than the average per capita income of the municipality in which the area is designated. Block group data from the 2000 Census was utilized to indicate the presence of this criterion.
- *Population.* The qualifying condition is that the area has had either stable or decreasing population based on the last two decennial censuses. Block group data from 1990 and 2000 was examined to indicate the presence of this criterion.
- *Unimproved land* Compliance with this standard involved examining the corporate limits and defining areas within those limits which remain unimproved. The qualification is if more than half of the plotted and subdivided property in the

area has been within the city for forty years and has remained unimproved during that time.

Subjective Criteria

If an area met one of the objective qualifying requirements, it would then be subject to further review under the "Subjective Criteria" section of the statute. If one or more of these qualifiers was met, the area in question was determined to be "blighted and substandard." The subjective criteria include the following:

- A substantial number of deteriorated or deteriorating structures,
- The existence of defective or inadequate street layout,
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness,
- Unsanitary or unsafe conditions,
- Deterioration of site or other improvements,
- Diversity of ownership,
- Tax or special delinquency exceeding the fair value of the land,
- Defective or unusual conditions of title,
- Improper subdivision or obsolete platting,
- The existence of conditions which endanger life or property by fire and other causes, or
- Any combination of such factors that 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.

Study Area

The findings in this Study are based on analysis conducted for a location referred to as the "North Redevelopment Area." This project consists of five single-family properties and one commercial property.

The legal descriptions for the properties in the redevelopment area include:

David City 18 15 3 PT NE1/4SW1/4 Annexed 1.75 AC

David City PT NE 1/4SW1/4 18-15-3 Annexed (173X256) 1.016 AC

David City 18 15 3 PT NE1/4SW1/4 Annexed .67 AC

David City 18 15 3 PT SE1/4SE1/4NW1/4 Annexed 2.4 AC

12 15 2 PT SE1/4 128.60 AC

The City of David City, Nebraska, Part of the Northwest quarter (NW1/4) of Section

Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6th PM., Butler County, Nebraska

18 15 3 PT SE1/4NW1/4 3 AC

Findings

Documentation of Qualifying Conditions - Objective Criteria

- 1) Underemployment. Not applicable.
- 2) Average age of residential or commercial units in the area. The qualifying condition is an average age that is at least forty (40) years old.

Yes. The area meets this qualifying condition. There are seven properties within the redevelopment area - which include four single-family properties and one commercial property. Two of the buildings are around a hundred years old making the median age for the study area 47 years.

360 S. Street- 1982 (26 years)
3653 MN Road - 2002 (6 years)
3661 MN Road- 1917 (91 years)

3651 MN Road - 1900 (108 years)
3657 MN Road - 2004 (4 years)

- 3) Per capita income. Not applicable
- 4) Population. Not applicable.
- 5) Unimproved land. Not applicable.

As a result of meeting at least one of the Objective criteria, the Redevelopment Area is subject to further review under the "Subjective Criteria" section of the statute.

Documentation of Qualifying Conditions- Subjective Criteria

- 1 A substantial number of deteriorated or deteriorating structures.

Yes. The results of the study conclude that a large number of the structures in the Redevelopment Area are deteriorating and in many cases are beyond repair. The deteriorating structures are evidenced in the pictures below.

Field analysis determined that notable parcels within the Redevelopment Area have a significant combination of deteriorating factors present. Most of the utility buildings and some of the residential buildings surveyed demonstrated effects of deterioration, including deteriorating roofing, windows, siding, and foundations. As evidenced in the attached photos, most properties have visual signs of dilapidation. *(See attached photos pages 9-11)*

Since the average age of the residential structures in question is 47 years old, and the utility buildings on these properties are often much older than the homes, it is evident that the main cause of structure deterioration is lack of maintenance and updating.

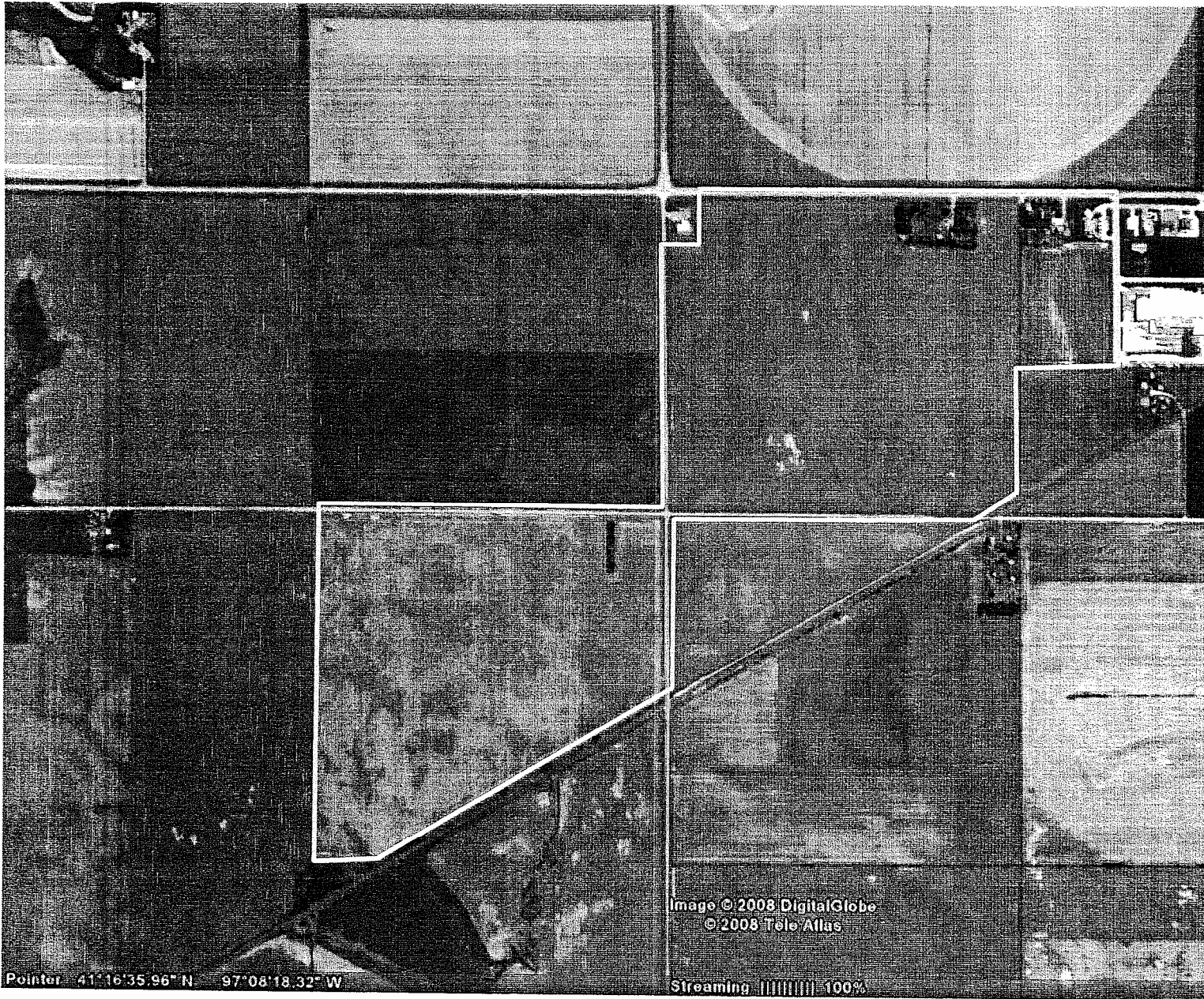
- 2) The existence of defective or inadequate street layout. Not applicable.

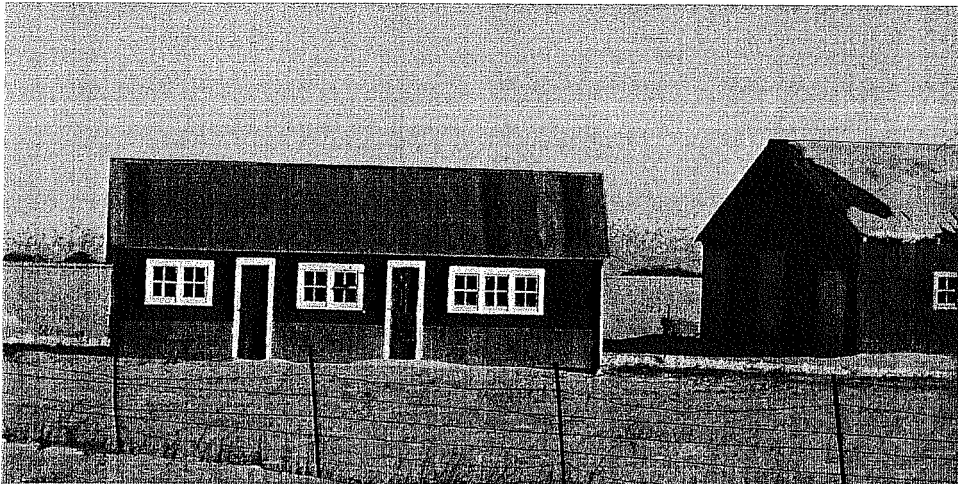
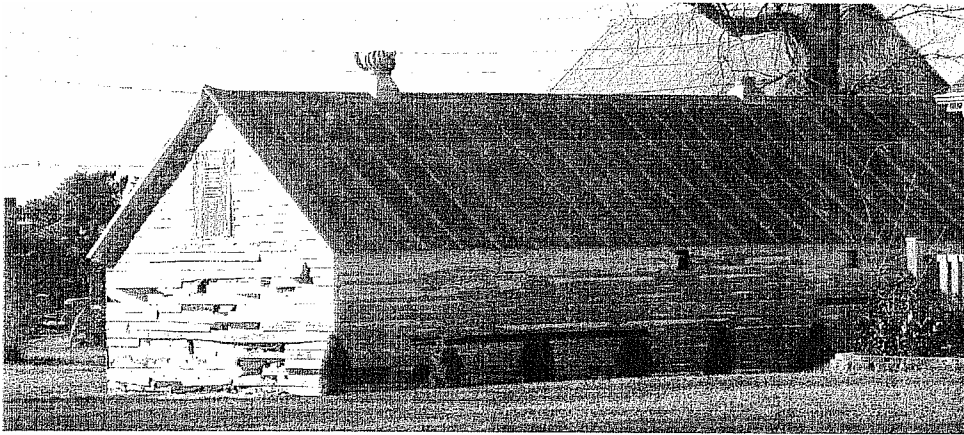
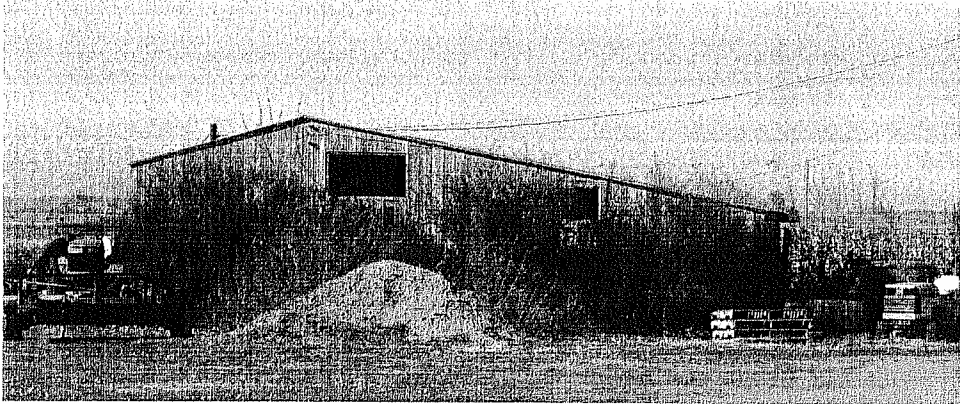
- | | |
|---|-----------------|
| 3) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness. | Not applicable. |
| 4) Unsanitary or unsafe conditions. | Not applicable. |
| 5) Deterioration of site or other improvements. | Not applicable. |
| 6) Diversity of ownership. | Not applicable. |
| 7) Tax or special delinquency exceeding the fair value of the land. | Not applicable. |
| 8) Defective or unusual conditions of title. | Not applicable. |
| 9) Improper subdivision or obsolete platting. | Not applicable. |
| 10) The existence of conditions which endanger life or property by fire and other causes. | Not applicable. |

The Redevelopment Area meets at least one of the subjective criteria and is therefore eligible to be blighted.

Conclusion

The purpose of this Study is to determine if all or part of the designated Redevelopment Area is substandard and blighted. This study indicates that the Redevelopment Area is both substandard and blighted under the provisions identified in the Nebraska Community Development Law and the general plan as required.





Dilapidated conditions
Deteriorating siding
Aging structures

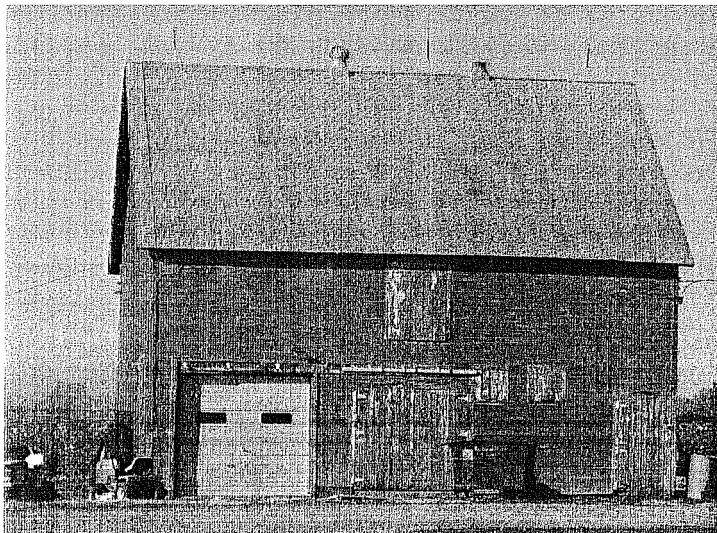


Aging structures



Deteriorating facilities

Needs maintenance



Dilapidated buildings

Council member Hein made a motion to go into executive session to discuss pending litigation. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Schatz, Yindrick, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Trowbridge stated that the City Council was going into executive session to discuss pending litigation.

The City Council, Mayor Trowbridge, City Administrator Joe Johnson, Attorney Jim Birkel, and City Clerk Joan Kovar went into executive session at 8:20 p.m.

Council member Yindrick made a motion to come out of executive session at 8:30 p.m. Council member Hein seconded the motion. Voting AYE: Council members Smith, Schatz, Lukassen, Hein, and Yindrick. Voting NAY: None. Council member Scribner was absent. The motion carried.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Yindrick seconded the motion. Voting AYE: Council members Lukassen, Smith, Yindrick, and Hein. Voting NAY: Council member Schatz. Council member Scribner was absent. The motion carried and Mayor Trowbridge declared the meeting adjourned at 8:31 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
October 8, 2008

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of October 8, 2008; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk