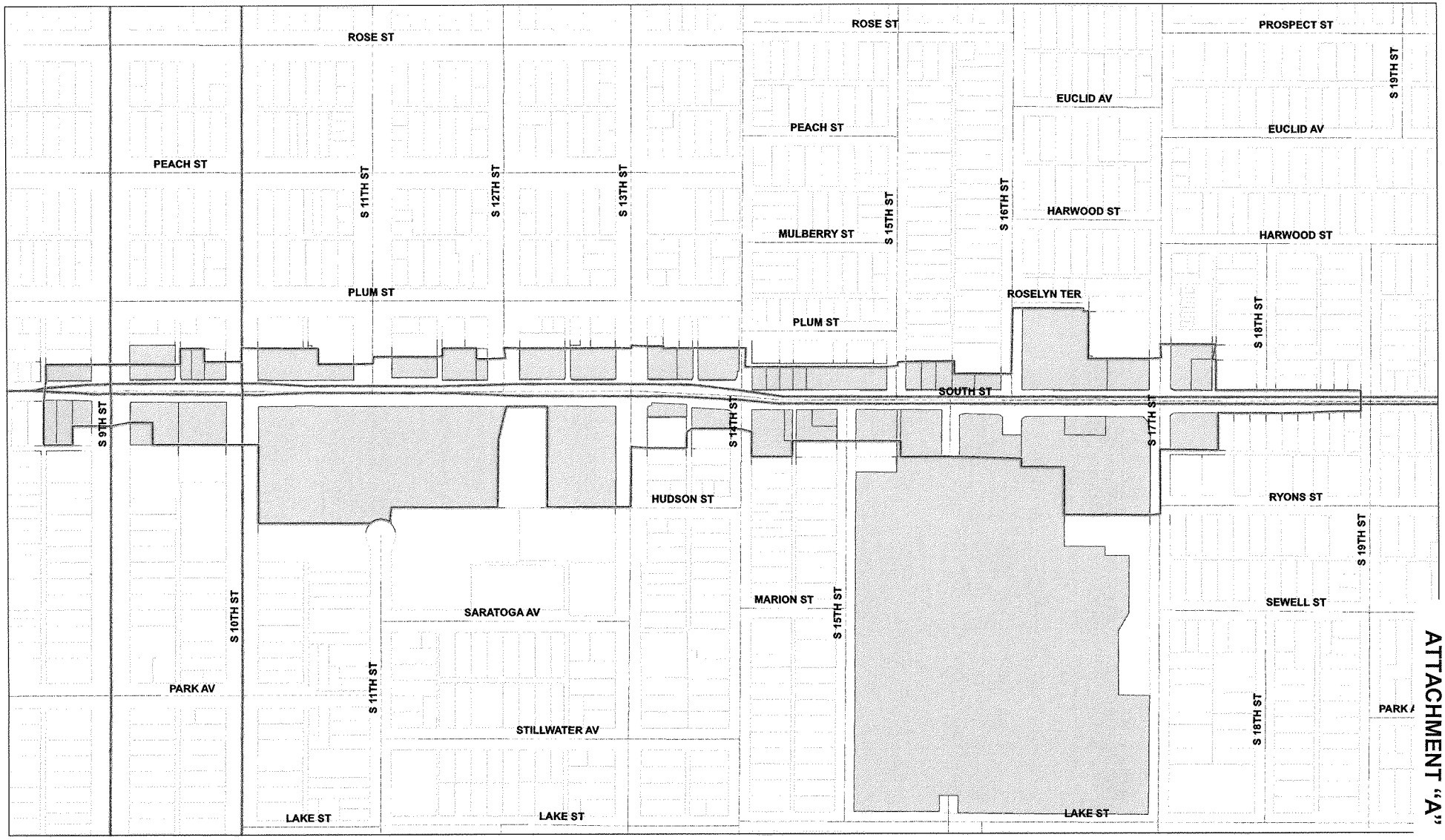

ATTACHMENT "A"

South Street Business Improvement District

South Street Business Improvement District — Major Streets — Streets

Created by:
City of Lincoln Urban Development Dept.
Created on 01/26/2011

NORTH

LEGAL DESCRIPTION

MAXWELLS ADDITION, Lot 5 - 6, W60' & LOT 10 & BENNETT'S SUB LOTS A - E & ROSELYN TERRACE LOTS 5 - 8 & S250' N-S ALLEY ADJ LOTS 2 - 6 MAXWELL ADD
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ELECTRIC PARK ADDITION, BLOCK 1, Lot 1
ELECTRIC PARK ADDITION, BLOCK 1, Lot 2
ELECTRIC PARK ADDITION, BLOCK 1, Lot 4
ELECTRIC PARK ADDITION, BLOCK 1, Lot 5 - 10
MAXWELLS ADDITION, Lot 18, W65'
SOUTH LINCOLN, BLOCK 21, Lot 3 - 4, E40' W75' EX TR ON S CONTAINING 136.3' FOR ST
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CENTRAL PARK, BLOCK 1, Lot 23 - 24
HARWOODS ADD, BLOCK 2, Lot 10, W1/2 EX TRACT IN SW CORNER & W1/2 LOT 11 & ALL LOT 12
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RYONS ADD, BLOCK 1, Lot 10, EX N6' FOR STREET & LOTS 11 & 12 EX TRACT ON N CONTAINING 653.6 SF FOR STREET
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ELECTRIC PARK ADDITION, BLOCK 1, Lot 3
SOUTH PARK ADD, BLOCK 3, Lot 3, W40'
SOUTH PARK ADD, BLOCK 2, Lot 1 - 3, EX N6'
CENTRAL PARK, BLOCK 1, LOT 4 - 20, & GOULDS SUB LOTS 1 - 24 & DAVIS SUB W63.42' LOTS 10-13 EX N28.50' LOT 10 & ALL LOTS 14-17 & W54' LOTS 29-30 & ALL LOTS 31-51 & REMAINING PORTION OF LOT 52 BETZ & CRAWFORD ADD LOTS 1-14 & JENNINGS ADD LOTS 1-4 & BETZ ADD

City Council Introduction: **Monday**, January 25, 2010
Public Hearing: **Monday**, February 1, 2010, at **3:00** p.m.

Bill No. 10R-34

FACTSHEET

TITLE: A Resolution of Intent to establish the **South Street Business Improvement District,** requested by the Director of the Urban Development Department.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/13/10
Administrative Action: 01/13/10

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (9-0: Gaylor Baird, Esseks, Larson, Partington, Cornelius, Francis, Lust, Sunderman and Taylor voting 'yes').

FINDINGS:

1. The Urban Development Department has submitted a request to establish a Business Improvement District for the provision of maintenance of certain public facilities and improvements in the area of South Street from the alley west of 9th Street east to 19th Street, to be known as the **South Street Business Improvement District.**

2. The staff recommendation to find the proposed establishment of the **South Street Business Improvement District** to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4, concluding that a Business Improvement District in this area will function to enhance and maintain South Street streetscape improvements. The staff presentation is found on p.5-6.

3. Testimony in opposition by Gwendell Hohensee is found on p.6 and p.12-13. Mr. Hohensee expressed concern about the additional burden upon the businesses and property owners.

4. On January 13, 2010, the Planning Commission agreed with the staff recommendation and voted 9-0 to find the proposed establishment of the **South Street Business Improvement District** to be in conformance with the 2030 Comprehensive Plan (Comprehensive Plan Conformance No. 09015).

5. Pursuant to Neb.Rev.Stat. §19-4025, a complete copy of the proposed resolution of intention, including the public hearing date before the City Council, has been mailed to each owner of taxable property as shown in the records of the Lancaster County Assessor.

FACTSHEET PREPARED BY: Jean L. Preister — **DATE**: January 19, 2010

REVIEWED BY: _____ — **DATE**: January 19, 2010

REFERENCE NUMBER: FS\CC\2010\CPC.09015 BID

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for JANUARY 13, 2010 PLANNING COMMISSION MEETING

PROJECT #: Comprehensive Plan Conformance No. 09015

PROPOSAL: Form a Business Improvement District for South Street

LOCATION: Right-of-way of South Street from a half block west of S. 9th Street to S. 19th Street and properties adjacent thereto.

LAND AREA: 4 acres, more or less.

CONCLUSION: A Business Improvement District in this area will function to enhance and maintain South Street streetscape improvements from a half block west of S. 9th Street to S. 19th Street.

RECOMMENDATION:	In conformance with the Comprehensive Plan.

GENERAL INFORMATION:

LEGAL DESCRIPTION: See "Exhibit A" attached.

EXISTING ZONING: B-3 Commercial District
P Public Use District (Saratoga Elementary School)
Currently P/R-4 Residential District change of zone in process (Lancaster Manor)

EXISTING LAND USE: Commercial, dwellings, retail, restaurant, surface parking lots, elementary school, and nursing home.

SURROUNDING LAND USE AND ZONING:
From the South Street Right of Way:

North: B-3 Commercial District: dwellings, commercial, retail, and restaurant uses.
R-2 Residential District: commercial and dwellings.

South: B-3 Commercial District: dwellings, commercial, retail, and restaurant uses.
R-2 Residential District: parking lot and dwellings.
R-4 Residential District: church.
P Public Use District: Saratoga Elementary School.
Currently P/R-4 change of zone in process: Lancaster Manor.

COMPREHENSIVE PLAN SPECIFICATIONS:

This area is identified as "Commercial" on the 2030 Comprehensive Plan Future Land Use map. (Page 18)

Commercial: Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (Page 16)

S. 9th Street and S. 10th Street are classified as Urban Principal Arterials. (Page 102)
S. 13th Street, S. 16th Street, S. 17th Street, and South Street are classified as Urban Minor Arterials. (Page 102)

SOUTH STREET REDEVELOPMENT PLAN SPECIFICATIONS:

3. Improve street amenities such as landscaping, street lighting, street furniture along the corridor and in conjunction with new development;
4. Enhance the pedestrian experience in the Redevelopment Area; and
5. Improve sense of security by implementing design features that include lighting and the creation of open spaces with a high degree of visibility. (Page 17)

Streetscape Beautification
As part of the South Street Improvement Project, streetscape amenities will be added to the corridor. Elements include ornamental lighting, landscaping, corner nodes, signage/banners, and benches, stamped colored concrete at major intersections. (Page 19)

Sources of funding may include:

- **Special Assessment Business Improvement Districts**;
- Private Contributions;
- Sale of Land Proceeds (Proceeds from the sale of land acquired for redevelopment, as identified in the Redevelopment Plan, shall be reinvested in the Redevelopment Area);
- Municipal Infrastructure Redevelopment Fund (MIRF);
- Community Development Block Grants (CDBG);
- Home Investment Partnership Act (HOME);
- HUD Section 108 Loan Program;
- Community Improvement (Tax Increment) Financing (Ad Valorem Tax);
- Capital Improvements Program Budget;
- Federal and State Grant;
- Interest Income; and
- Advance Acquisition Fund – property rights/easements, public facility site acquisition. (Page 25-26)

ANALYSIS:

1. A Business Improvement District (BID) is a special assessment district where additional funds are levied for the purpose of special benefit to that district. The method of assessment in this area will be by linear front foot along South Street. In this case, this segment of South Street will be enhanced and maintained as the South Street Business Area Improvement Board sees fit and as funding allows.

2. Currently in Lincoln, there are BIDs downtown, in College View, and in University Place.

3. The proposal to form a BID for the enhancement and maintenance of the South Street area is consistent with the 2030 Comprehensive Plan and the South Street Redevelopment Plan.

4. §19-4024 Nebraska State Statutes requires Planning Commission's review and recommendation to the City Council. (See attached)

5. State law requires notice to all affected property owners for the City Council hearing, not the Planning Commission hearing. However, the Planning Department has sent a notice to the South Street Business and Civic Association.

6. The draft resolution is attached.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: December 30, 2009

APPLICANT: David Landis, Director
City of Lincoln Urban Development Department

CONTACT: Ernesto Castillo
City of Lincoln Urban Development Department
808 P Street, Ste. 400
Lincoln, NE 68508
402-441-7855

COMPREHENSIVE PLAN CONFORMANCE NO. 09015

PUBLIC HEARING BEFORE PLANNING COMMISSION: January 13, 2010

Members present: Esseks, Gaylor Baird, Cornelius, Partington, Taylor, Francis, Larson, Lust and Sunderman.

Ex Parte Communications: None.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Staff presentation: **Brandon Garrett of Planning staff** advised that the South Salt Creek Neighborhood Association did not receive notice of this public hearing; however, the Planning Department will inform the Association of the City Council public hearing date. The Planning Department did notify the South Street Business & Civic Association, and the Near South, Irvingdale, Everett and Country Club Neighborhood Associations as well as the affected property owners.

The record consists of a letter in support from the Near South Neighborhood Association.

Esseks inquired as to the role of property owners in a BID. Must they agree or approve it? **Ernie Castillo of the Urban Development Department,** the applicant, advised that the property owners are part of the South Street Business & Civic Association; however, if 51% of the property owners come out against the BID, it cannot proceed.

Castillo advised that the Urban Development Department is asking for the Planning Commission support of the proposed BID with a finding that the establishment of the South Street BID conforms with the Comprehensive Plan. Three years ago, a joint effort between Urban Development and Public Works started the South Street business improvement project, including streetscape amenities, plantings, trees, ornamental lights, signage, etc., and the best way to address the maintenance issues is to establish a BID. The establishment of the BID insures that future maintenance costs in this area are taken care of. Urban Development has been working with the South Street Business & Civic Association for three to four years.

Gaylor Baird inquired whether the BID is on a time frame or something that would be considered ongoing. Castillo believes it would be considered permanent and ongoing.

Partington inquired about any occupation tax associated with approval of this BID. Castillo advised that the BID will have nothing to do with an occupation tax. It will be assessed per front foot along the corridor. A property owner with 50 feet fronting South Street would be assessed for those 50 feet. For example, the BID on North 27th Street from O Street to Fair Street is currently an assessment of about $9400/year; and the BID for University Place from Adams to Leighton is about $11,400/year.

Castillo stated that the next step after approval by the City Council is to work in coordination with the Association board to determine the type of maintenance items and specifications. They

will work with the Parks Department; advertise the BID package; and open the bids. The resolution sets forth a maximum assessment for the first year of $18,000; however, he does not anticipate that it will be that much. It will probably be more consistent with North 48th (University Place) and the North 27th Street districts.

Opposition

1. Gwendell Hohensee, Hohensee Land Company, owning frontage between 10th and 11th on South Street, testified in opposition. He does not believe it has been neither right nor fair that this has been handled in this way. If it was the City's intent that the property owners were to assume upkeep and maintenance costs of these plants on City property, then all landowners affected should have been given written notice of that intent before the paving plan was adopted. His property was significantly impacted during the repaving; he has also been impacted by the recession and slower business with higher expenses due to the cold and snow. Now the City announces a new burden with this BID proposal. Hohensee stated that he is not a member of the South Street Business Association, and he suggested that some active members of that group have no financial liability for the proposed BID.

Hohensee pointed to what he believes to be several errors and inconsistencies in the proposed resolution, including how the assessments are calculated. He has the least front footage yet he is charged the same as anyone else. He gave suggestions on how the median should be bricked-in to minimize the sidewalk snow removal problem and the need to reopen access to crosswalks.

Gaylor Baird asked staff to address Mr. Hohensee's concerns. Castillo the addressed the points raised by Hohensee. The BID board requested that the snow removal be included, but it is going to be included as an alternate in the BID specifications. If done as an alternate, it can then be reviewed and accepted or declined. The main worries were 13th, 17th, 16th, the mental health clinic, people who take public transit and Saratoga School. The snow is pushed into the crosswalks. One of the desires was not so much in the dead of winter, but to keep it a pedestrian friendly area, so that is where the snow removal came from, but it will be asked for as an alternate item.

Castillo addressed the small park on 14th Street. Originally, the plan showed closing of 14th Street to the north. It is a very tight corner and Public Works wanted to close that street to traffic. In talking with the business owners, they compromised on a right-in only, so just half of the park was developed with a bench and trash receptacles, three or four planting areas and 3 or 4 trees.

Gaylor Baird then inquired why businesses would be willing to take on these costs. Castillo suggested that it is an area benefit and does a lot to enhance the area. From the beginning when we started having public meetings and focus groups, we informed the area that we were looking at it both from a Public Works and an Urban Development standpoint. Part of the streetscape process is the establishment of the BID for future maintenance costs. Things will be assessed equally across the frontage. Mr. Hohensee will be assessed more, but the front footage is divided into the total equally so that every parcel will be paying determined on their front foot space.

Partington wondered whey there has been no testimony in support by the city or these businesses that will be involved. Then three business owners in the audience were acknowledged as being in attendance and in support.

Larson commented that these types of BID's are common throughout the country. Who collects the tax? Castillo advised that the assessment is made by Urban Development and goes to the County. This action does not create the BID – we're just setting up the possibility of the BID and it is up to the business owners to approve or disapprove. This is not a vote on any kind of increased tax but to make it possible for the business owners to set up their own district. There will be another public hearing at the City Council

Francis inquired whether it is appropriate for Lancaster Manor to be included. Castillo stated that when this project was started, Lancaster County owned that land and agreed to be assessed. Since the zoning has now been changed to R-4 (which zoning cannot be included in the BID), Urban Development does have plans to make contact with the new owner of Lancaster Manor and ask that they pay into the BID. This will occur prior to the public hearing before City Council.

The members of the BID board are property owners or business owners that would be in the BID.

ACTION BY PLANNING COMMISSION: January 13, 2010

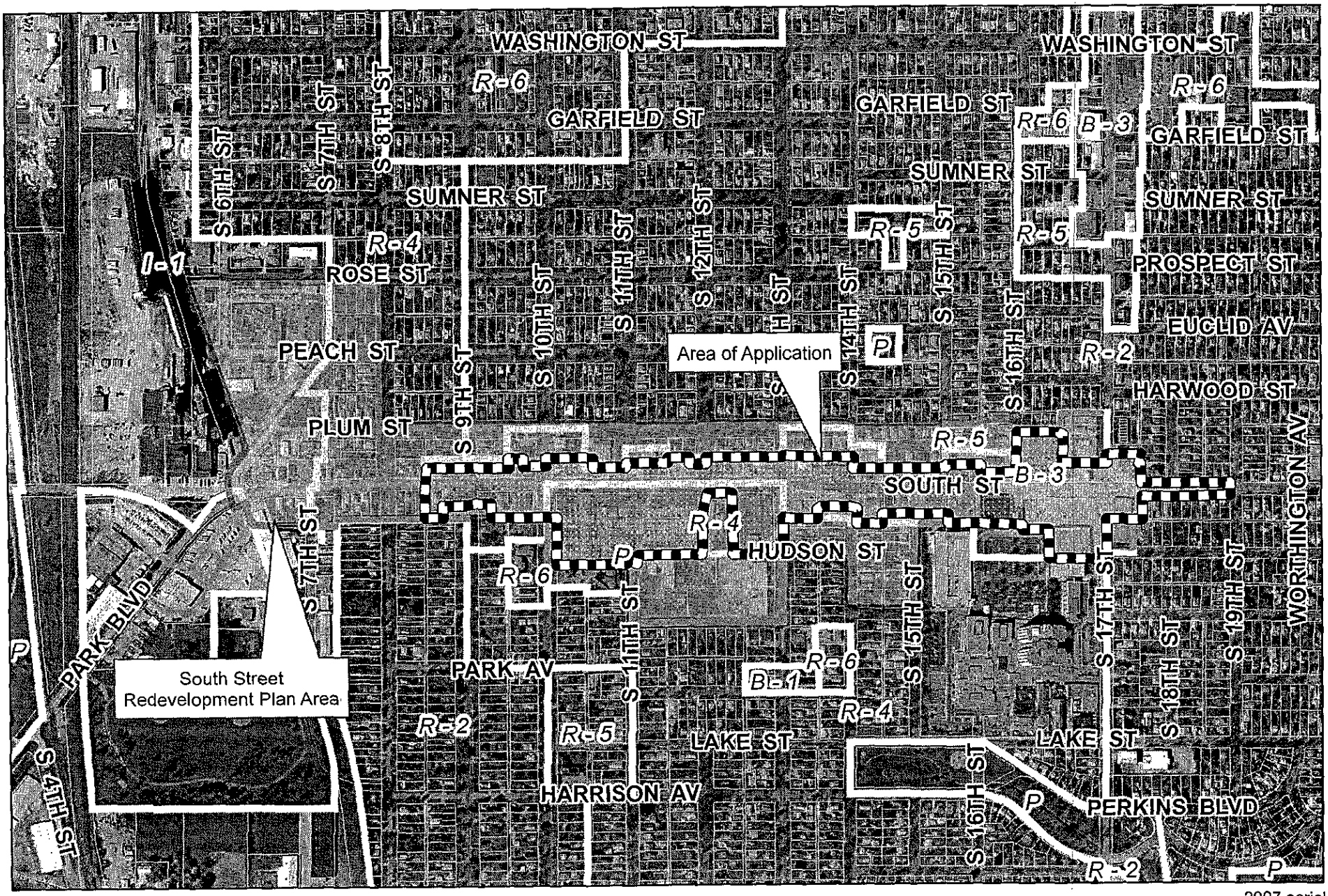
Lust moved a finding of conformance with the Comprehensive Plan, seconded by Gaylor Baird.

Larson commented that this type of entity is widespread throughout the country, and the biggest ones are normally in the downtown areas. The Downtown Lincoln Association is a good example and it insures the continuity of maintenance of the area. He believes that BID's are generally a good idea and that the BID's have not abused their power. There is always the opportunity for a majority of the business owners to force change. Larson believes that this is a very good plan and it would make sure that the South Street valuations will be maintained and that the area will not become run down over the years.

Francis commented that anytime there is a BID in a smaller older neighborhood, it does have a small gathering of businesses. It is a win situation for that community.

It appears to Gaylor Baird that the BID will be supportive of the multiple goals of the South Street redevelopment plans, such as security and aesthetics of the neighborhood, and should be of benefit to the local businesses on South Street.

Motion for a finding of conformance with the Comprehensive Plan carried 9-0: Esseks, Gaylor Baird, Cornelius, Partington, Taylor, Francis, Larson, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.



2007 aerial

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Zoning Jurisdiction Lines

City Limit Jurisdiction

Comp Plan Conformance #09015
South Street BID

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008

EXHIBIT A: LEGAL DESCRIPTION

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City of Lincoln - Lancaster County
PLANNING DEPARTMENT
555 S. 10th Street, Suite 213
Lincoln, NE 68508
Ph. (402) 441-7491
Fax: (402) 441-6377

ePlan
ePlan Submittal

Application Information			
Application #	09009015	Title	SOUTH STREET BUSINESS IMPROVEM
Associated Requests			

Planning Department Use Only			
Submission Date	12/17/2009	Review Due	12/27/2009
Project Planner	Brandon Garrett		

Review Comments	
Planning	○ Corrections Needed for Review ○ Insufficient Information for Review ○ Recommend Denial ○ Recommend Approval with Conditions ◉ Recommend Approval ○ No Review Required
Development Review Manager (Steve Henrichsen)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required
Law Department (Rick Peo)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required In conformance with the Business Improvement District Act.
Public Works (Dennis Bartels)	Corrections Needed for Review Insufficient Information for Review Recommend Denial Recommend Approval with Conditions Recommend Approval No Review Required

Completed Review Comments

010

19-4024. Business improvement district; creation by city council; resolution of intention; contents; tax or assessment; basis.

Upon receiving the recommendation from the business improvement board, the city council, after receipt of recommendations from the planning commission if the city has a planning commission, may create one or more business improvement districts by adopting a resolution of intention to establish a district or districts. The resolution shall contain the following information:

(1) A description of the boundaries of any proposed district;

(2) The time and place of a hearing to be held by the city council to consider establishment of a district or districts;

(3) The proposed public facilities and improvements to be made or maintained within any such district; and

(4) The proposed or estimated costs for improvements and facilities within any district, and the method by which the revenue shall be raised. If a special assessment is proposed, the resolution also shall state the proposed method of assessment.

The notice of intention shall recite that the method of raising revenue shall be fair and equitable. In the use of a general occupation tax, the tax shall be based primarily on the square footage of the owner's and user's place of business. In the use of a special assessment, the assessment shall be based upon the special benefit to the property within the district.

Source: Laws 1979, LB 251, § 10; Laws 1983, LB 22, § 4.

Annotations

- The proper time for a choice as to what method of special assessment is to be used, if such is the route decided upon, is at the time of adoption of the creating ordinance, as set forth in section 19-4029. North Star Lodge #227, A.F. & A.M. v. City of Lincoln, 212 Neb. 236, 322 N.W.2d 419 (1982).

011

OPPOSITION
SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION: 1/13/10

COMP PLAN CONFORMANCE NO. 09015
SOUTH STREET BID

GWENDELL HOHENSEE

♦♦♦

3601 Calvert St. ♦ Suite 2 ♦ Lincoln NE 68506
Phone 402-489-1988 ♦ Fax 402-489-1988 ♦ Email ghohensee@inebraska.com

January 13, 2010

I am Gwendell Hohensee and I own Hohensee Land Co. and I am speaking as owner of the frontage from 10th to 11th on South Street

I believe that it was neither right nor fair that this has been handled as it has. If it was the City's intent that we were to assume upkeep and maintenance costs of these plantings on City property then all landowners affected should have been given written notice of that intent in the notice sent to alert property owners of the repaving project. Certainly we should have had written notice before the paving plan was adopted.

I was given notice that it was the City's intent to redo South Street. I checked on the plans and learned that no land would be taken along the property I own, and that the Median in front of my property would remain the same length with no change in access to my property.

We were, of course significantly affected during the repaving. Then we were and are affected by the Recession. For the last month or more, business has been slower and expenses much higher due to the cold and snow.

Now the City announces a new burden that they want to add.

If I had known that the City was intending to move the care and maintenance of the landscaping I would have proposed and worked for a very different approach.

I understand that the City did get input from the South Street Business Association in their planning for the changes on South Street. Until now I have not been a member of that group. Some active members of that group have no financial liability for the proposed District, so the group should not speak for the landowners who would be liable.

The wording of the Resolution that I have received has, what appears to be, several errors and inconsistencies:

1. Item 3g – indicates that snow removal will be included in the bid. Now I am told that is not practical and any bid for snow removal would be above and beyond the Contract for the other care. Based on reports of the cost in other BID Districts, it appears the $18,000 maximum yearly liability with annual increases was set deliberately very high. Even so, we are told if the snow removal cost added to the other care costs exceeds the yearly limit then we could have to pay more than the $18,000+.
2. Items 3b, c, and d seem to be primarily for things that primarily benefit, and were desired by, one or two landowners. The area that became available due to making 14th street one way has been developed as a small park. There are other such small parks in town that the City cares for. Why is this one an exception? This Park seems more like a peace offering to those who may have preferred a two-way street.
3. Items 6 and 7 – It appears that more than one and one-half blocks of the affected area are Residential and not liable. That means about 15% more cost for the rest. I have received a notice that one property along South Street has applied for a change of zoning from P to R-4. That would further reduce the front-footage available to cover

parks

the cost of this project. There is also a provision that Property exempt from Ad Valorem taxes will be asked to contribute. There is no guarantee that there will be any such contributions or how much the contributions, if any, will be, and no legal responsibility to contribute.

4. The assessment is to be based on front footage along South Street, less the front footage that is exempt for one reason or the other. My property runs from 10th Street to 11th Street on the North side. It covers an area back from South Street of 100 feet for about 60% of my frontage. The east 40% (which is a parking lot) goes back only 50 feet. There are several properties that have larger depth measurements, some double or triple what I have. Not only do some areas get more services, but some can also spread the cost over a larger business base. My east parking lot has the least square feet per front footage of any property in the proposal.

One of the problems I have with the City, and which I have heard others express, is their pushing snow on the sidewalk and then expecting me to keep the sidewalk clean. This problem could be avoided on this section of South Street.

In Omaha the city is bricking in their Medians. With drivers driving over the curbs and onto the Medians and running over plants, with the damage from winter salt applied to the street that is pushed on and splashed onto the Median, with the difficulty of keeping enough water for plants in the middle of hot pavement, with the personal injury risk of people working in the Medians to perform care and maintenance, and with the expense from the extra time needed to do work in a very unhandy place to work, the present plan has serious drawbacks.

There is a desire to make the area more attractive. Creating a pattern in the Median with a pattern using different color bricks would help fill that need.

If the Median were bricked in the City could push snow to the center. That would minimize the sidewalk snow removal problem and the need to reopen access to cross walks. We already have people hired to clear the snow from our parking lots and sidewalks, and are doing so. The problem comes when snow is pushed on the sidewalks, which are right next to the road. It also blocks access to the crosswalk. That snow is packed solid and quickly becomes ice. It is difficult to remove at that time. Our own snow removal people had already cleared our lots and sidewalks, usually before opening time that morning. Moving the snow to the center over the Median and turn lanes would solve that problem. Two lanes in each direction could quickly be opened up and the pile in the center would be accessible for easy removal. For most of the frontage on our street there is no place to pile street snow. On years like this we even have to haul away the snow from our parking lots.

Omaha is moving snow to the center. I believe Lincoln is starting to do some also. It makes a lot of sense on streets like ours with no place to push it to on the side.

At one time, if a person came to the City and requested that their street be paved they were required to show in writing that over 50% of the front footage favored the project. A representative from the City told me that in this case the burden is on the opposition to show that over 50% oppose the project. Why do the rules change when the City wants us to assume the cost of the upkeep of landscaping on their property?

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Maria Svoboda for Blanchard Family Trust — 1.24.10

Sign Name — Date

MARIA SVOBODA FOR BLANCHARD FAMILY TRUST

Print Name

1743 SOUTH ST

Property Address

10.36.304.009.000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Sign name

1-24-10
Date

John Boies
Print Name

1751 South St.
Property Address

10-36-304-007.000
Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Sign name

1-24-10
Date

John Boies
Print Name

1747 South St
Property Address

10-36-304-008-000
Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Sandra E. Bienka — 1/22/10

Sign Name — Date

Sandra E. Bienka

Print Name

1815 South st.

Property Address

10-36-304-004-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Lee A. Wittstruck
Sign Name

1-23-2010
Date

Lee A. Wittstruck
Print Name

1830-1832 South St.
Property Address

10-36-130-010-000
Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Edward Roth Patricia Roth 1/24/10

Sign Name Date

EDWARD ROTH PATRICIA ROTH

Print Name

1702 South St.

Property Address

10-36-129-009-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Lorayne Fitzgibbons — 1-22-2010

Sign name — Date

Lorayne Fitzgibbons

Print Name

1838 South St.

Property Address

S 10-36-130-011-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Lorayne Fitzgibbons — 1-22-2016

Sign name — Date

Lorayne Fitzgibbons

Print Name

1848 South St.

Property Address

10-36-130-012-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Orville L. Meyer trustee — 1-26-10

Sign name — Date

Orville L. Meyer

Print Name

1400 South st

Property Address

10-36-132-010-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Sign Name

1.28.10
Date

CHRISTOPHER M. JAMES
Print Name

1422 SOUTH ST
Property Address

10-36-132-012-000
Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Emmert Krauel Jr — 1/28/2010

Sign name — Date

Emmert Krauel Jr

Print Name

1414 South Street

Property Address

10-36-132-011-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

[signature] 1-26-10

Sign Name Date

Stuart Marx

Print Name

1325 1401 1415 South St

1748 South St

Property Address

10-35-406-018-000 10-36-334-028-000

10-36-334-026-000 10-36-129-011-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Gwendell Hohensee — 1/28/10

Sign name for Hohensee Sand Co. — Date

Gwendell Hohensee

Print Name

1000 South

Property Address

16-35-245-011-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Sign Name

1-29-10
Date

Paulina Nguyen
Print Name

1648 ~~So~~ South St. 68502
Property Address

10-36-128-021-000
Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Craig Johnson — 1-29-10

Sign name — Date

Craig Johnson

Print Name

1720 South St.

Property Address

10-36-129-010-000

Property ID Number

Re: Comprehensive Plan Conformance No. 09015, South Street, 9th to 19th

I am opposed to this Proposed Plan. I ask that the City Council deny this application.

Roger Duerr

Judith D Duerr — 1/29/2010

Sign Name — Date

Roger Duerr

Judith D Duerr

Print Name

1433 South

Property Address

10-36-334-002-000

Property ID Number

A-85707 RECEIVED
FEB 01 2010
CITY COUNCIL OFFICE

GWENDELL HOHENSEE
♦♦♦
3601 Calvert St. ♦ Suite 2 ♦ Lincoln NE 68506
Phone 402-489-1988 ♦ Fax 402-489-1988 ♦ Email ghohensee@inebraska.com

February 1, 2010

1. Allocation of the costs equally per front foot is unfair. At least six properties appear to extend back from South Street by 50 feet or less. Some properties appear to extend back by 200 feet or more. The property size, the earning base, and the presumed benefit, are in no way equal.

2. I count 62 properties in this proposed district. I am concerned with the fact that there 16 properties that have no legal liability to contribute.

3. I have had two different interpretations about replacing dead plants. Ernie Costillo said that the City would review the plantings each fall and make a list of dead plants. A successful bidder for the next would be responsible for replacing them. Last Friday, after I left a message with Ernie, another person called for him. In my conversation with that City representative he told me the bidder was responsible for any plants that died on his watch. The bidder would have to bid high because there would be no way to know how many plants were already sick the year before, how many would be killed by street salt, careless drivers, irrigation failure etc. The work required by a potential bidder needs clarification.

4. The sidewalk maintenance provision is also unreasonable because it includes the sidewalks of 16 properties that are tax exempt. Some are properties owned by the School District or County. Whether they contribute to the BID or not, it still is double taxation for the rest of us.

5. The snow removal provision is very broad. It could include all snow removal including the snow removal from the street. There also is a conflict between paragraph 3. g. and paragraph 4 and the City's interpretation of those paragraphs. The City has told me that one bid will cover all but the snow removal. The snow removal will be bid separate and added on. If the total exceeds $18,000, we would be liable for all. So much for the $18,000 maximum.

6. I have been told that the bid for snow removal will be a flat rate for the year. If a bidder contracts for a year on those terms it will be necessary to bid for the worst possible. A bid based on average or expected snowfall could be devastating and a risk no one could afford. This would result in very high bids.

7. With the proposal of one bidder for all items listed in the first five sub-paragraphs of Paragraph 3 the Bidder would have to include at least six very different activities. It is unlikely we would receive any really competitive bids.

8. The Ornamental Lights are replaceable with matching lights only so long as the ones in place are being manufactured. Even then they would have to be

purchased from the manufacturer and then someone else would be required to install. Again, the owners were not told before construction began that the City planned on passing the cost of maintenance on to the property owners.

I believe this application for a BID by the City should be denied because: A--the landowners were not timely notified that the City intended to form a BID, B--the District includes many properties that are not liable for the cost of this BID. Those liable will have to assume the cost of all of the Paragraph 3 provisions, (C)--We will be subject to double taxation because of property that is not taxable, D--the allocation of cost liability is unfair, (E)—Paragraphs 3 and 4 need clarification, and (F)—If the City decided to add things to the paving project that they did not want to care for, they should have made that known to the affected property owners and obtained their approval before the City did the work.

I did not receive any notice prior to the time the paving work was done. My first awareness of the intent to create a BID was dated December 31, 2009. Others report the same thing. I had no reason to even assume the City might plan a BID before that date. People east of 17th were involved with a 17th to 27th Paving project two or three years before the 9th to 17th project. There was no BID established after that project. They had no reason to be concerned about this project. I know of no one legally liable for the cost of a BID that had cause to be concerned that one would be coming and the time they would have to defend against it would be so limited.

The so-called "BID Board" was formed from volunteers from the South Street Business and Civic Association. I believe the affected property owners should have been notified before the work was done, given a chance to consider the merits of the Project, and if desired, the owners should have chosen the BID Board.

I believe the Resolution should be dismissed for any one of the points I have mentioned. Taken together they show clearly how onerous and unreasonable the application is as written.

If the Resolution is not dismissed, I ask that a final decision on this be delayed. We have had only a very brief time to locate and check with other property owners. Most all of the owners I talked to expressed opposition to this proposed plan. A person who did go to one of the early planning meetings before the paving was done said the only item discussed at that meeting was the plantings and irrigation. And there was no indication, at that time, that a BID was planned or that the City expected someone else to pay for the care of what the City chose to do on their right of way. I have only talked to one person that supports the plan as written and one other that favored the plantings and irrigation on the side and corners of the street.

Because we have been given very little time to determine how individual landowners feel, because it is very difficult, often impossible, to find phone

numbers to reach the landowners, and because of the heavy snow, blizzard conditions and extreme cold that made the little time we did have marginally useable, and because it will require letters to many landowners that cannot otherwise be reached, I ask that, if this application for a BID is not here denied, that we be given more time to reach the landowners for whom we have only an address, to determine their wishes.

I have statements of opposition signed by 19 landowners with frontage of South Street. I don't know how much the total front footage that amounts to or how much frontage I have to have over 50% of. It may take a legal opinion to determine if property with no legal obligation to contribute is included in the total.

I was told be Ernie Castillo that probably the only way I could stop the formation of this District is to show that over 50% of the property owners opposed it. Once, when establishing a paving district, I was told that it was necessary to first show that over 50% favored it. Why is the opposite true in this for the City?