

FACTSHEET

TITLE: CHANGE OF ZONE NO. 06013, from R-5 Residential District to B-3 Commercial District, requested by B & J Partnership, Ltd., on property generally located at 15th and South Streets.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/15/06
Administrative Action: 03/15/06

STAFF RECOMMENDATION: Approval, subject to a conditional zoning agreement.

RECOMMENDATION: Approval, subject to a conditional zoning agreement (8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes').

FINDINGS OF FACT:

1. This is a request to change the zoning to B-3, which would allow a range of commercial and retail uses, including automobile repair and sales, gas stations, and similar uses that may not be compatible with the adjacent residential neighborhood.
2. The staff recommendation of approval, subject to a conditional zoning agreement, is based upon the "Analysis" as set forth on p.3-5, concluding the proposed change of zone is supported by the Comprehensive Plan because it will permit the redevelopment in the South Street commercial district. However, special care must be taken to prevent specific uses that may not be compatible with nearby residential areas and to control lighting and signage on the site (See conditions of approval on p.4-5).
3. The testimony by the applicant's representative, Mark Hunzeker, is found on p.6-8, wherein he agreed with the use limitations and conditions of approval via a conditional zoning agreement.
4. There was no testimony in opposition.
5. The Planning Commission discussion with the applicant and staff is found on p.7.
6. On March 15, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval, subject to a conditional zoning agreement as set forth in the staff report.
7. Since the Planning Commission hearing, staff has identified one additional use that we would recommend be prohibited, and we have asked the applicant to consider adding this to the agreement.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 21, 2006

REVIEWED BY: 

DATE: March 21, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06013

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for March 15, 2006 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 06013

PROPOSAL: From R-5 Residential to B-3 Commercial

LOCATION: 15th & South Street

LAND AREA: 22,240 square feet, more or less.

CONCLUSION: This change of zone is supported by the Comprehensive Plan as it will permit the redevelopment in the South Street commercial district. However, special care must be taken to prevent specific uses that may not be compatible with nearby residential areas and to control lighting and signage on the site.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION:

All of Lots 4 and 5, Block 3, Electric Park Addition, located in the NW 1/4 of Section 36-10-6, Lancaster County, Nebraska, generally located at South 15th & South Streets.

EXISTING ZONING:

R-5 Residential

EXISTING LAND USE:

Vacant. This site previously featured two single-family dwelling units, one per lot.

SURROUNDING LAND USE AND ZONING:

North:	R-5 Residential	Residential
South:	B-3 Commercial	Vacant (lots fronting South Street)
East:	R-2 Residential	Residential
	B-3 Commercial	Fast food restaurant
West:	R-2 Residential	Residential

HISTORY:

This site previously featured two single family dwelling structures which have now been demolished. Three lots fronting on South Street adjacent are vacant and zoned B-3. A building permit has been obtained by the applicant to construct a parking lot on these lots fronting South Street.

COMPREHENSIVE PLAN SPECIFICATIONS:

F-25 The Future Land Use plan identifies this area as Commercial.

- F-91** The Comprehensive Plan designates this area as an Existing Pedestrian Activity Center. These areas are typically located in settings where people go to walk around, shop, eat, or conduct business. These districts attract large numbers of pedestrians on a regular basis. They include the Downtown (along with the main campus of the University of Nebraska-Lincoln), University Place, College View, and Havelock. Pedestrian level of service standards in these areas should be high. These areas should have direct, continuous sidewalks with safe street crossings. Visual interest and amenities should serve to attract people to these districts. Future large scale, mixed- use activity districts should be considered members of this category of pedestrian activity centers.

Guiding Principles Applying to all Forms of Commerce Centers

- F-41** The Comprehensive Plan designates this area as an Existing Neighborhood Commercial Center
- F41** New or established commercial uses should not encroach upon, or expand into, existing neighborhoods.
- F-42** Buildings and land uses at the edge of the center should be compatible with adjacent residential uses. Examples of compatible land uses include offices or child care centers. Buildings should be compatible in terms of height, building materials and setback. Small compatible commercial buildings at the edge could include retail or service uses. Buildings with more intrusive uses should have greater setbacks, screening requirements and be built of more compatible materials.
- F-42** The most intensive commercial uses, such as restaurants, car washes, grocery stores, gasoline/ convenience stores and drive thru facilities should be located nearer to the major street or roadway and furthest from the residential area. Citizens of the community have become increasingly concerned about "light pollution" and its affects upon neighborhoods and the environment. Lighting, dumpsters, loading docks and other service areas should be shielded from the residential area.

Guiding Principles for Existing Commercial Centers

- F49** Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.
- F-49** Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented.

Guiding Principles for Existing Neighborhoods -

- F69** 1. Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. Commercial parking lots should not intrude into residential areas where residential uses predominate a block face. More intense commercial uses (gas stations, big box stores, car wash, fast food, etc.) may not be compatible due to impact on nearby housing. Expansion in existing centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas.
- F-69** 2. Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.
- F-69** 3. Require new development to be compatible with character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).

ANALYSIS:

1. This site is currently vacant and zoned R-5.
2. The applicant proposes a change of zone to B-3 that would allow a range of commercial and retail uses including automobile repair and sales, gas stations, and similar uses that may not be compatible with the adjacent residential neighborhood.

3. There are no setback requirements in the B-3 District unless abutting or sharing the same block face with a residential district. A side yard of 5' and rear yard of 30' is required where a B-3 district abuts a residential district. The proposed B-3 zoned properties would share a side yard and a block face with the R-5 zoned properties to the north thus requiring a 25' front yard setback and a 5' side yard setback where the two districts would abut.
4. The adjacent lots fronting on South Street are currently zoned B-3.
5. Redevelopment and Infill development is encouraged throughout the community. This particular application is supported as a means to encourage and allow redevelopment to occur.
6. This change of zone is supported because it will help to create a developable larger site and because the zoning would be the same as much of the remainder of the South Street corridor in this area.
7. The Comprehensive Plan states that development in neighborhood commercial centers, which the nearby South Street corridor is considered to be, shall transition from more intensive commercial uses to residential and that more intense commercial uses shall be located nearer the arterial street.
8. This area is designated as a pedestrian district and all new infill development or redevelopment should adhere to the development pattern suggested therein. Staff strongly encourages the applicant to reconsider the proposed site plan and locate the commercial building fronting on South Street with the parking in back, in a similar context as the surrounding buildings and to accommodate and encourage pedestrian activity.
9. If the building is located toward the back with parking in front, direct pedestrian access from the sidewalk along both 15th Street to the building entrance should be encouraged. In this scenario, more landscaping and screening should be installed on the north and east sides of the building to screen the use from the neighboring residential lots. Lighting and signage should also be given special attention.
10. A conditional zoning agreement could be used to restrict certain uses and require specific design considerations to ensure that the development will meet the policies of the Comprehensive Plan. The applicant has signaled agreement with the restriction of certain uses, but will not agree to modify the design of the site plan in moving the building toward the street.
11. If a conditional zoning agreement is developed the applicant will agree to restrict the following uses:
 - 11.1 Automobile and vehicle sales, dealerships, or lots.
 - 11.2 Automobile and vehicle service stations, fuel/gas stations, and automobile and vehicle body repair shops.
 - 11.3 Tire stores and tire sales.

12. If the applicant proceeds with the proposed configuration of building and parking area, staff recommends that the agreement also include the following elements:
 - 12.1 Provide direct walking paths from sidewalks on 15th Street to building entrance and from South Street to the building entrance if possible.
 - 12.2 No pole or ground signs along 15th Street north of the parking lot and no west-facing wall signs on the building.
 - 12.3 All lighting on poles or building to utilize full-cutoff fixtures.
 - 12.4 If approved, the new design standards will require screening along drive thru lane along 15th Street. Current standards require 60% screening between ground elevation and ten feet above ground elevation along the north lot line due to the abutting residential.

Prepared by:

Joe Rexwinkle
Planner

DATE: March 1, 2006

APPLICANT: B&J Partnership, Ltd.
340 Victory Lane
Lincoln, NE 68528

OWNER: Same as above

CONTACT: Michael J. Tavlin
B&J Partnership, Ltd.
340 Victory Lane
Lincoln, NE 68528

CHANGE OF ZONE NO. 06013

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 15, 2006

Members present: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson.

Staff recommendation: Approval, subject to a conditional zoning agreement.

Ex Parte Communications: Carlson disclosed that he attended the Near South Neighborhood meeting when the applicant made a presentation. The application presented to the neighborhood was the same as set forth in the staff report.

Proponents

1. **Mark Hunzeker** appeared on behalf of the applicant, **B&J Partnership**. This application relates to the two lots north of the lots which actually front South Street. There are three lots which front South Street which are already zoned B-3. The proposal is to put a building on the two north lots, widening out the alley access to have a full 24' driveway and to provide the other access off of 15th Street. The old bakery building is right up to the property line on 15th and South Streets. They are attempting to provide an adequate drive-through for StarBucks, which is proposed to be the main tenant. The applicant has been working with the South Street Business Association as well as the neighborhood association in conjunction with the redevelopment of this area of South Street. Hunzeker believes that generally speaking, the proposal has been pretty well received.

Carroll noted that the staff report strongly encourages the applicant to reconsider the site design. Hunzeker concurred that the applicant has had several meetings with the staff relative to the site plan. The proposed site plan provides good access into this site from the alley. The applicant thought this site plan worked better than placing the parking lot up against the residential properties to the north and bringing all traffic back around next to the residential uses. The major tenant is comfortable with this site plan. Going east on South Street, you get to 16th Street where there is a fairly popular bar at the corner of 16th and South Street. The alley and the narrow drives between the businesses along 16th Street become a fairly highly traveled area. Hunzeker suggested that getting a good entrance off of South Street is very important for that reason as well as the fact that it just represents a better site plan. The applicant is doing this in conjunction with other businesses that exist there in terms of providing additional parking in the area.

Hunzeker added that there is a possibility at some point in the future for additional extension of an access road across from 15th to 16th in conjunction with the redevelopment of this area. If that ever happens, this site plan is definitely a better fit.

Carroll referred to #8 in the staff analysis which suggests additional landscaping and screening on the north and east sides of the building to screen the use from the neighboring residential lots if the building is located toward the back with parking in front. Hunzeker stated that the applicant would agree to this suggestion, but that it would be on the north and "west" sides of the building (as opposed to "east" - believing this to be an error in the staff report). The applicant picks up a 25' setback along 15th Street because of the residentially zoned property to

the north in the same block. That represents a much greater setback than any of the houses on 15th Street. There will be plenty of room to landscape to provide pedestrian access.

Hunzeker also agreed with the restriction of uses.

Carlson noted that typically there is not a site plan reviewed with a change of zone application. He also noted that the new South Street Business and Civic Association attends to redevelopment up and down South Street and he believes they are coming up with some theme for that streetscape. He also knows that they have discussed community parking for the businesses behind the property immediately to the west. Therefore, Carlson believes it might make some sense to leave the site plan fluid. He is wondering if it is premature to have this particular location in regards to the two other processes that are going on. Hunzeker acknowledged that there has been discussion about additional community parking along the back side of that block, and he knows that B&J is certainly amenable to that. Hunzeker has not been directly involved, but his understanding is that the discussion has been the possibility of extending the parking to the north of this site. Relative to this particular site, however, B&J does have a tenant who is anxious to locate here and maintaining a fluid site plan is pretty hard when you are trying to get under construction. This tenant wants to locate there now. Carlson assumes there are other ways to satisfy the tenant's needs in that particular location. Hunzeker pointed out that this applicant has had a lot of interaction with the staff on this site plan and some specific discussion about the potential of moving the building around or moving it forward. The net result is what is being proposed with this change of zone.

There was no testimony in opposition.

Staff questions

Carroll inquired whether the applicant and staff have agreed on the zoning agreement conditions as far as moving the building and excluding some uses. Joe Rexwinkle of Planning staff indicated that the staff and the applicant are in agreement.

Carlson wondered about locating the building next to the street. Rexwinkle stated that he had discussed this with the applicant initially, and the response was that that would basically kill the project from the applicant's point of view. The Comprehensive Plan definitely supports that concept; however, there is no mechanism in the zoning ordinance to enforce it. All the staff can do is strongly encourage that it be done. He believes that it is important to promote that type of concept where the buildings are to the street with the parking in the rear. Carlson wondered whether the new approach to conditional zoning gives that latitude. Marvin Krout, Director of Planning, agreed that conditional zoning can allow added restrictions to what the underlying zoning otherwise permits, but it would not allow a variance or modification to the zoning standards as is done with use permits. In the B-3 district, it would be possible to build this building to the street. However, the key issue in this case is that there is a project with a tenant and a building permit, so we are left with the choice of living with the building and parking lot. We would like to see the design change but we don't have an overlay that requires it. Our choice was to sacrifice what we would most like to see in terms of design in order to encourage revitalization. This is not the only building on South Street that would be set back from the street.

Response by the Applicant

Hunzeker reiterated that they do have a tenant who needs to have a drive-through and setting the building up to the very front of this lot makes that extraordinarily difficult and still provide the parking that is required. We have to provide parking on the east side but cannot on the west side because we have a front yard on the 15th Street frontage. We have tried very hard and made extra effort to save a couple of very nice trees right along South Street. The applicant really needs to proceed with this site plan. This will be a nice improvement for South Street and for the whole area.

ACTION BY PLANNING COMMISSION:

March 15, 2006

Strand moved to approve, subject to the conditional zoning agreement as set forth in the staff report, seconded by Esseks.

Carroll explained that the reason he pulled this application from the Consent Agenda was to clarify some things. He thinks it is a good redevelopment of South Street and this tenant is a good thing for the city. He just wanted to clarify some of the conditions as far as limiting the uses from auto sales or dealerships, to which the applicant has agreed. Carroll believes it will be an improvement to the area.

Motion for approval, subject to the conditional zoning agreement as set forth in the staff report, carried 8-0: Sunderman, Strand, Esseks, Krieser, Taylor, Larson, Carroll and Carlson voting 'yes'. This is a recommendation to the City Council.



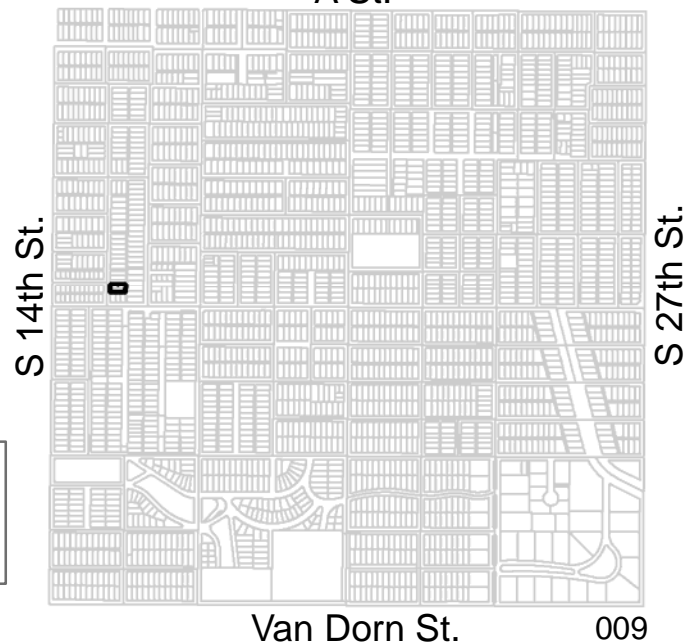
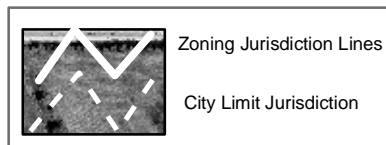
Change of Zone #06013 S 15th & South Streets

2005 aerial
A St.

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 36 T10N R6E



CHAMPION OLSON
 ARCHITECTS
 150 SOUTH STREET, LINCOLN, NE 68502 (402) 475-24

PLANT LIST

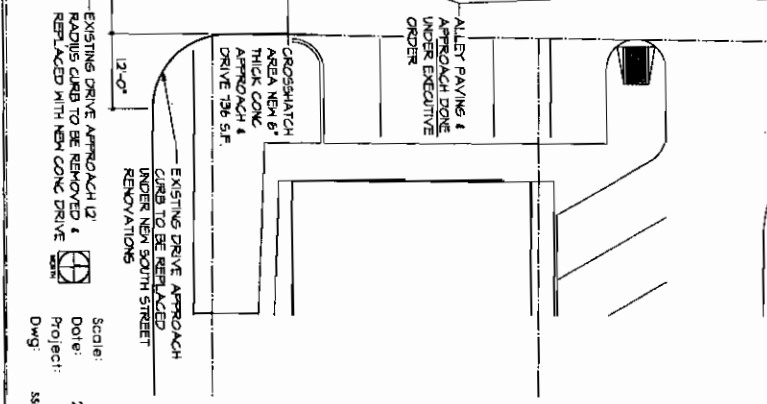
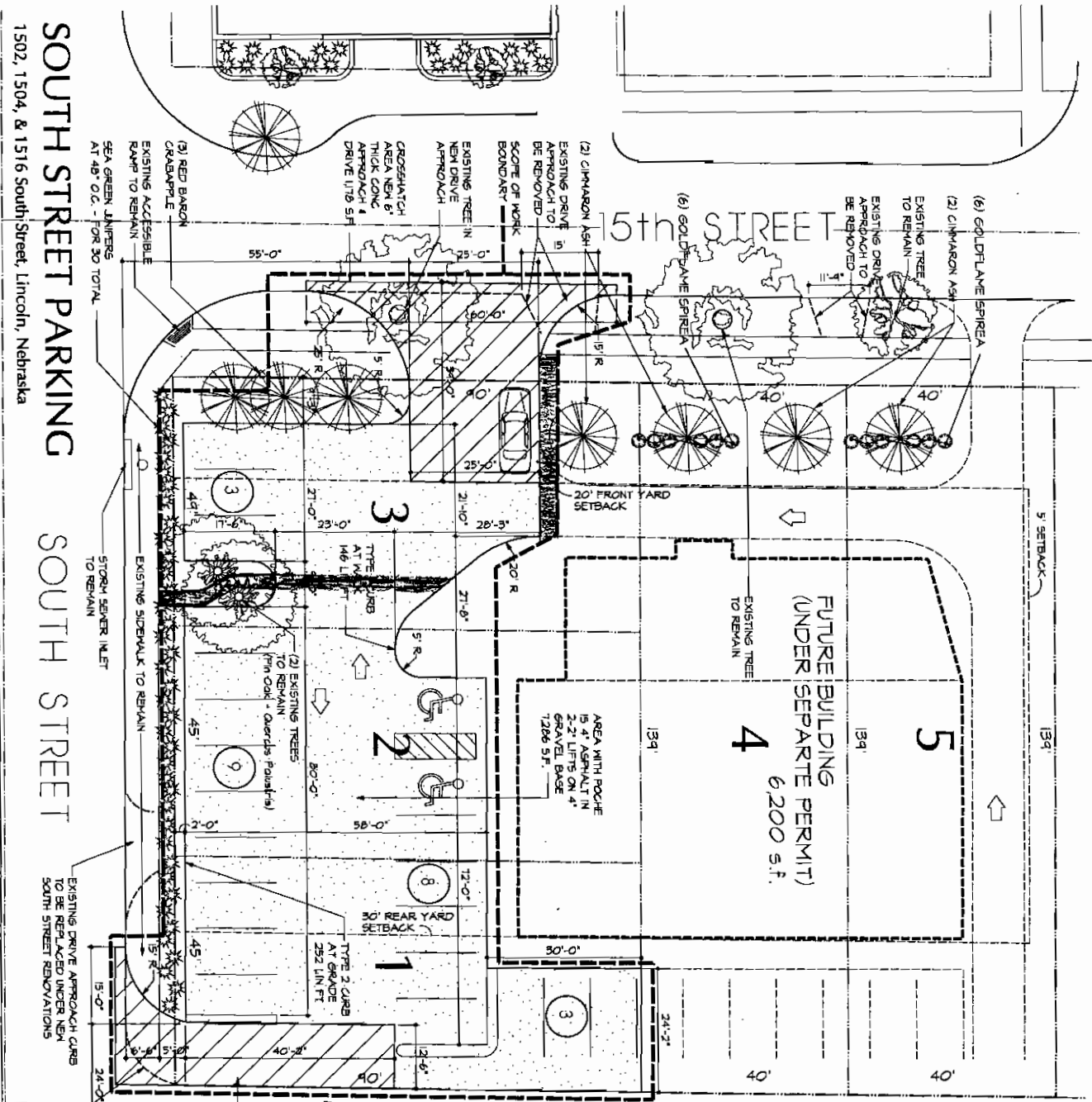
NO.	COMMON NAME	BOTANICAL NAME	SIZE	TYPE	HT./SPK.
1	RED BARON CRAWAPPLE	CINNAMON ASH	15'	B.T.B.	40' - 50'
2	SEA GREEN JANNERS	RED BARON CRAWAPPLE	15'	B.T.B.	18' - 12'
3	GOLD FLAME SPIREA	SEA GREEN JANNERS	9'	CONT.	3' - 8'
4		GOLD FLAME SPIREA	9'	CONT.	2' - 8'

BUILDING PARAMETERS

ZONING: B-3 (LOTS 1,2,3,4,5)
 OCCUPANCY: NONE
 TYPE OF CONSTRUCTION: SURFACE PARKING

LEGAL DESCRIPTION

ELECTRIC PARK ADDITION BLOCK 3, LOTS 1,2,3,4, & 5
 NOTE: SHERIDAN PROHIBITS OWNS ALL FIVE LOTS



Scale: 1" = 20'-0"
 Date: 26 JAN 06
 Project: 0107 SW
 Dwg: SW/02site.dgn

010
 A.1

SOUTH STREET PARKING

SOUTH STREET

1502, 1504, & 1516 South Street, Lincoln, Nebraska