

.....
Date November 5, 2012

**RESOLUTION CLOSING PUBLIC HEARING AND
WITHDRAWING CONSIDERATION OF ESTABLISHING THE
BEAVERDALE SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT**

WHEREAS, on August 27, 2012, by Roll Call No. 12-1385, the City Council received a petition to Establish the Beaverdale Self-Supported Municipal Improvement District for the purpose of funding the installation and maintenance of improved sidewalks, curbs, crosswalks, landscaping, planters, decorative lighting, utility relocation, traffic signals, and related pedestrian improvements along a portion of Beaver Avenue and Urbandale Avenue; and,

WHEREAS, the Petition was referred to the City Plan and Zoning Commission for preparation of a report for the City Council on the merit and feasibility of the proposed project and improvements as required by Iowa Code Chapter 386; and

WHEREAS, the City Plan and Zoning Commission considered the proposed project and improvements at a public hearing on September 20, 2012, and the City Council received the final report and recommendations of the Commission on October 8, 2012, by Roll Call No. 12-1563; and

WHEREAS, on October 8, 2012, by the Roll Call No. 12-1563, the City Council duly resolved that the Petition to Establish the Beaverdale Self-Supported Municipal Improvement District be set for public hearing on November 5, 2012, at 5:00 p.m., in the City Council Chambers in City Hall; and

WHEREAS, notice of said hearing was published in the Des Moines Register on October 25, 2012, as provided by law, setting forth the time and place for hearing on said Petition; and

WHEREAS, notice of the hearing was also given by certified mail on October 19, 2012, to each property owner within the proposed district at the owner's address as shown by the records of the County Auditor, all as specified in Section 386.3(4) of the Iowa Code; and

WHEREAS, Iowa Code Section 386.3(9) provides that "[a]t any time prior to adoption of an ordinance establishing a district, the entire matter of establishing such district shall be withdrawn from council consideration if a petition objecting to establishing such district is filed with its clerk containing the signatures of at least forty percent of all owners of property within the proposed district or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the proposed district."

Date November 5, 2012

WHEREAS, a petition objecting to establishing the proposed Beaverdale Self-Supported Municipal Improvement District has been filed with the City Clerk containing the signatures of 42.85% of all owners of property within the proposed district.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of Iowa Code 386.3(9) and the petition filed with the City Clerk objecting to the Beaverdale Self-Supported Municipal Improvement District, the hearing is closed.
2. The matter of establishing the Beaverdale Self-Supported Municipal Improvement District is withdrawn from City Council consideration.
3. The City Clerk shall file the petitions in opposition to the Beaverdale Self-Supported Municipal Improvement District.

(Council Communication No. 12- 560)

Moved by _____ to adopt.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

 Mayor

 City Clerk

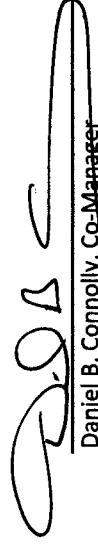
Property Address/Parcel Number	Owner	Business	Withdrew Petition in Support	Signed OBJECTION Petition
2716 Beaver Ave	US Bank	US Bank		No
7924-29-306-003	US Bank	US Bank (Parking)		No
7924-29-306-002	US Bank	US Bank (Parking)		No
2714 Beaver Ave	David Kouri	Uptempo Music		YES
2712 Beaver Ave	2712 Beaver LLC	Tally's		YES
2706 Beaver Ave	Judith & Robert Klever	Farrell's		No
2702 Beaver Ave	James Wormson	Back Country		No
4106 Sheridan Ave	John Essy	4-unit Apartment		No
2632 Beaver Ave	Dr James Hartzell	Vision Clinic	YES	YES
2636 Beaver Ave	Dr James Hartzell	Vision Clinic	YES	YES
2620 Beaver Ave	AIM Investments LC	AIM Kitchen & Bath		YES
2604 Beaver Ave	Davis Real Estate Fund LLC	Davis Insurance		YES
2600 Beaver Ave	Kathleen Teas	Hair Salon		YES
2601 Beaver Ave	Wayne Graham Family LLC	The Backroom		No
2607 Beaver Ave	Frank Lee	Rice Bowl		YES
2629 Beaver Ave	Boesen Land Co LLC	Beaverdale Center		No
2641 Beaver Ave	Vista Development Corp	Beaverdale Place		No
2711 Beaver Ave	Vista Development Corp	ACE Hardware		No
4041 Urbandale Ave	Vista Development Corp	Saints		No
2801 Beaver Ave	Eight Ways LLC	First American Bank		YES
2804 Beaver Ave	Christophers Inc	Medicap		No

Iowa Code Chapter 386 states that at any time prior to the adoption of an ordinance establishing a district, the entire matter of establishing such district shall be WITHDRAWN from council consideration if a petition(s) OBJECTING to establishing such district is filed with the Clerk containing signatures of at least forty percent of all owners of property within the proposed district

There are 16 owners of 21 properties within the proposed Beaverdale SSMID. The nine (9) Petitions in Objection to the establishment of the proposed Beaverdale SSMID equals 42.85% of the property owners within the proposed Beaverdale SSMID

Said nine(9) property owners hereby assert that there nine (9) signed petitions constitute a sufficient protest petition in OPPOSITION to trigger the requirement under Iowa Code Section 368.3(9) that "the entire matter of establishing such district be withdrawn from council consideration."

Submitted by Daniel B. Connolly on behalf of the above owners who oppose this proposed SSMID


Daniel B. Connolly, Co-Manager
Eight Ways, LLC
Titleholder: 2801 Beaver Avenue

430140 00100000

03114

October 30, 2012

PETITION (and Remonstrance)
OBJECTING
TO ESTABLISHMENT OF
THE BEAVERDALE SELF-SUPPORTING MUNICIPAL IMPROVEMENT
DISTRICT

Name: DAVID A. KOURI

Titleholder of: 2714 Beaver Avenue, Des Moines, Iowa

The undersigned is the titleholder of the above mentioned property situated in the Beaverdale commercial district within the City of Des Moines, Iowa AND situated within a proposed self-supporting municipal improvement district designated as "The Beaverdale Self-Supporting Municipal Improvement District." See Exhibit "1" attached hereto and incorporated by reference.

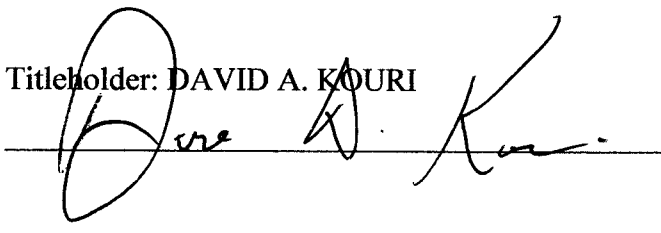
Pursuant to Iowa Code Section 386.3(9) the undersigned property owner respectfully **OBJECTS** to the establishment of such a district; and seeks to have the entire matter of establishing such district withdrawn from council consideration.

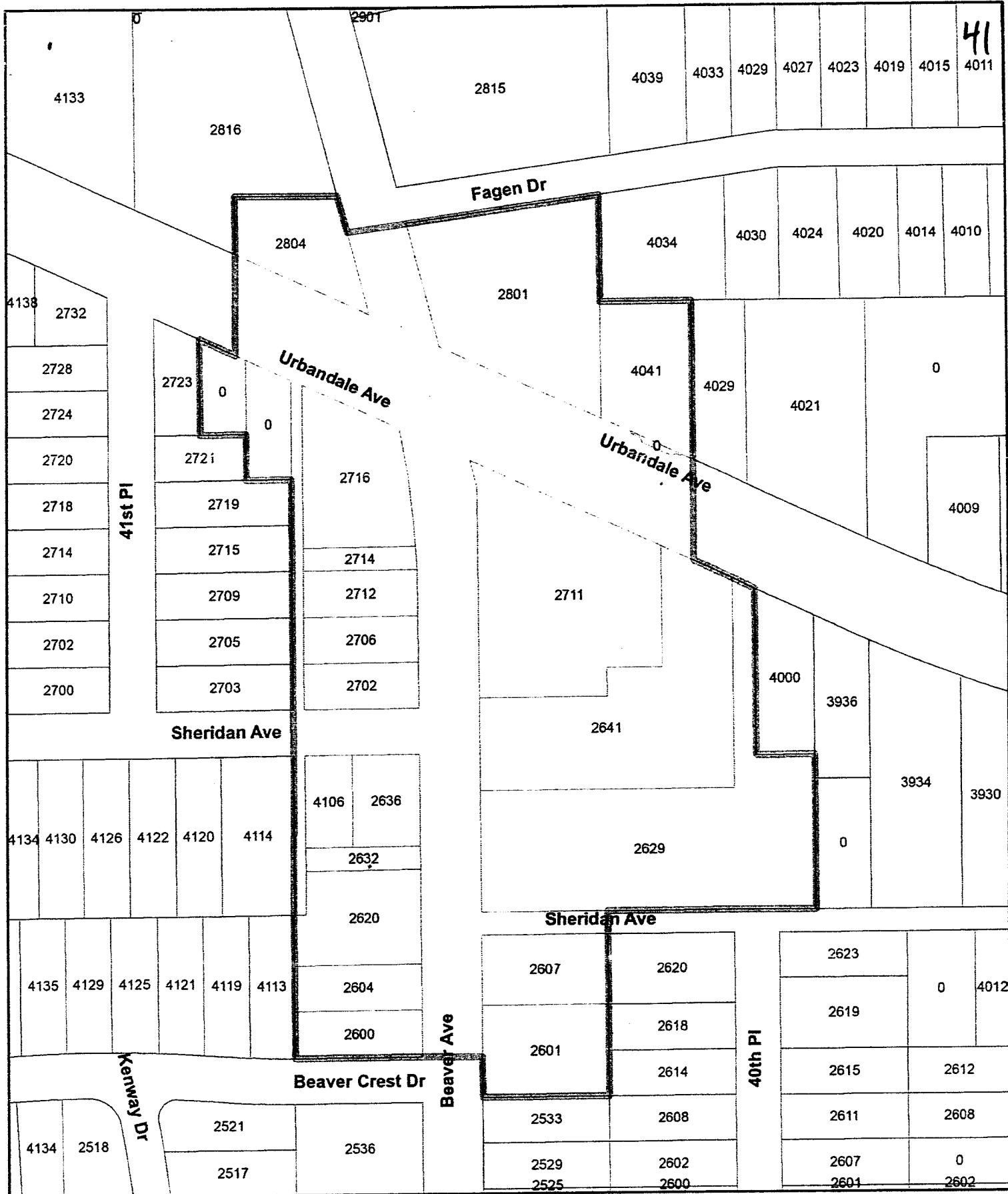
It is the intention of the undersigned property owner that this Petition in opposition to the establishment of such a district also serves as a remonstrance pursuant to Iowa Code Section 386.3(7).

The undersigned hereby certifies to be the owner of the property legally described as follows:
South 1/2 LOT 32, GRASSMERE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

and is shown as titleholder on the transfer books in the office of the Polk County Auditor. Subject to any ownership limitation set forth, the undersigned have full authority to execute this Petition (and Remonstrance).

DATED this 23 day of Oct, 2012.

Titleholder: DAVID A. KOURI




Beaver Avenue Streetscape Proposed SSMID Map

April 13, 2012



PETITION (and Remonstrance)
OBJECTING
TO ESTABLISHMENT OF
THE BEAVERDALE SELF-SUPPORTING MUNICIPAL IMPROVEMENT
DISTRICT

Name: 2712 BEAVER, LLC

Titleholder of: 2712 Beaver Avenue, Des Moines, Iowa

The undersigned is the titleholder of the above mentioned property situated in the Beaverdale commercial district within the City of Des Moines, Iowa AND situated within a proposed self-supporting municipal improvement district designated as "The Beaverdale Self-Supporting Municipal Improvement District." See Exhibit "1" attached hereto and incorporated by reference.

Pursuant to Iowa Code Section 386.3(9) the undersigned property owner respectfully **OBJECTS** to the establishment of such a district; and seeks to have the entire matter of establishing such district withdrawn from council consideration.

It is the intention of the undersigned property owner that this Petition in opposition to the establishment of such a district also serves as a remonstrance pursuant to Iowa Code Section 386.3(7).


The undersigned hereby certifies to be the owner of the property legally described as follows:
LOT 33 GRASSMERE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

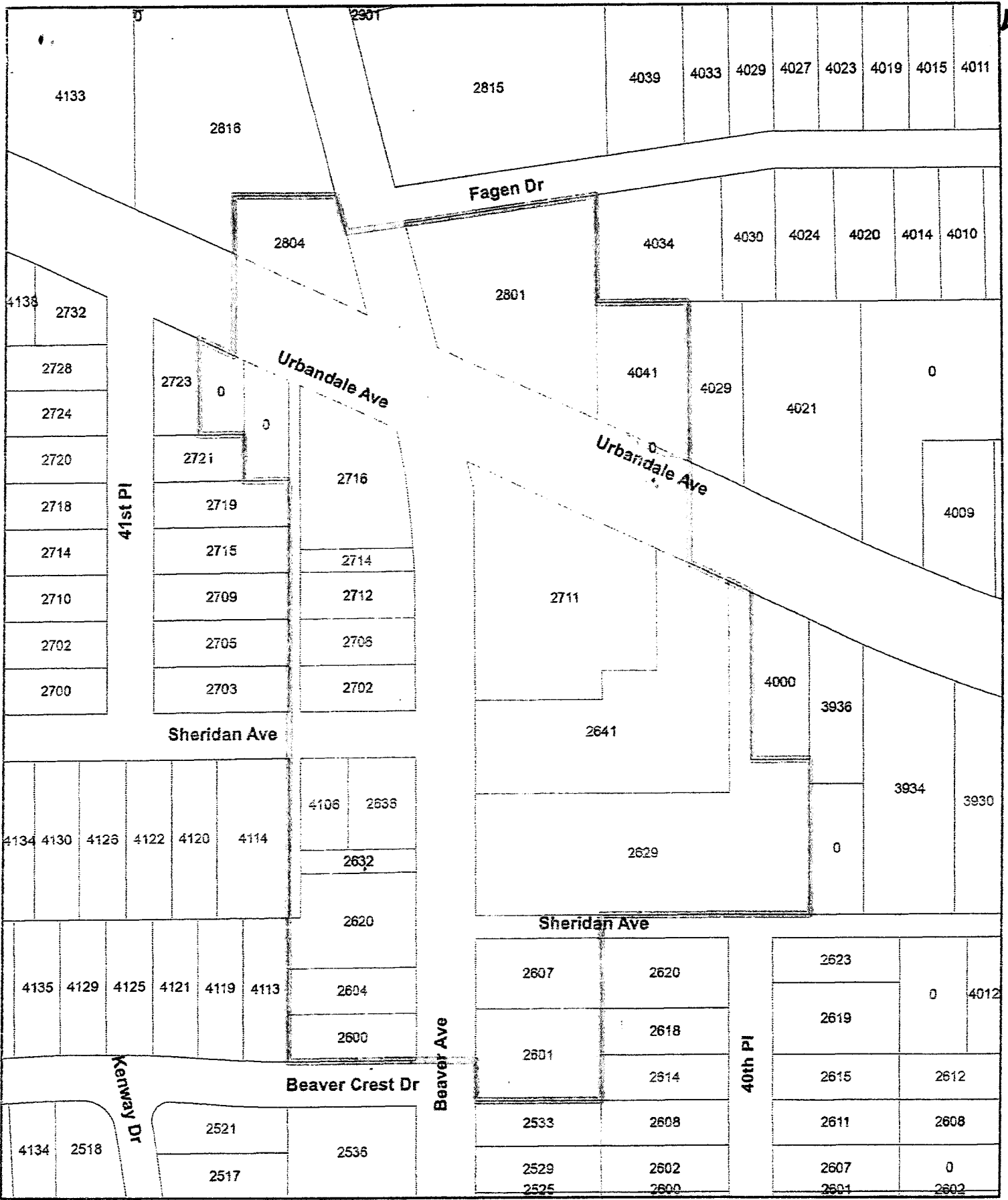
and is shown as titleholder on the transfer books in the office of the Polk County Auditor. Subject to any ownership limitation set forth, the undersigned have full authority to execute this Petition (and Remonstrance).

Signatories on behalf of limited liability companies certify the entity is X member-managed ___ manager-managed; that this Petition (and Remonstrance) is made in the ordinary course of business; that the undersigned is or are authorized to execute this Petition (and Remonstrance).

DATED this 23rd day of October, 2012.

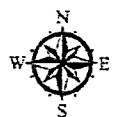
Titleholder: 2712 BEAVER, LLC

By: 
Todd Millang, Managing Member



**Beaver Avenue Streetscape
Proposed SSMID Map**

April 13, 2012



**WITHDRAWAL OF PETITION
TO ESTABLISH THE BEAVERDALE
SELF-SUPPORTING MUNICIPAL IMPROVEMENT DISTRICT**

Name: James W. Hartzell (Trustee), James W. Hartzell Trust
and
Deborah J. Hartzell (Trustee), Deborah J. Hartzell Trust

Titleholders of: 2632 Beaver Avenue, Des Moines, Iowa and

Legally described as: Lot 5 in P J CLANCY PLACE PLAT 2, an Official Plat, now
included in and forming a part of the City of Des Moines, Polk
County, Iowa

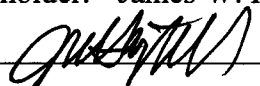
The undersigned are the titleholders of the above mentioned property situated in the Beaverdale commercial district within the City of Des Moines, Iowa AND situated within a proposed Self-Supporting Municipal Improvement District ("SSMID") designated as "The Beaverdale Self-Supporting Municipal Improvement District." See Exhibit "1" attached hereto and incorporated by reference.

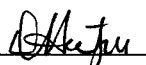
On, or about, 8-13-2012 the undersigned titleholders executed a Petition, pursuant to Iowa Code Chapter 386, for the establishment of the above-mentioned proposed SSMID District in Beaverdale.

Said titleholders hereby **WITHDRAW** said Petition for the establishment of The Beaverdale Self-Supporting Municipal Improvement District.

The undersigned state: that each named Trust is in existence; that James W. Hartzell is the current Trustee of the James W. Hartzell Trust; that Deborah J. Hartzell is the current Trustee of the Deborah J. Hartzell Trust; and that said Trustees are authorized to execute this Withdrawal on behalf of their respective Trust without limitation or qualification whatsoever.

DATED this 30 day of Oct, 2012.

Titleholder: James W. Hartzell Trust
By: 
James W. Hartzell, Trustee

Titleholder: Deborah J. Hartzell Trust
By: 
Deborah J. Hartzell, Trustee

**PETITION TO ESTABLISH THE
BEVERDALE
SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT**

(James W. Hartzell (Trustee), James W. Hartzell (Trust),
Deborah J. Hartzell (Trustee) and Deborah J. Hartzell (Trust))

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL
OF THE CITY OF DES MOINES, IOWA:

We, the undersigned, being owners of property within the Beverdale commercial district within the City of Des Moines, Iowa, and within the self-supported municipal improvement district proposed by this petition, hereby petition the Mayor and City Council of the City of Des Moines, Iowa, pursuant to the provisions of Chapter 386 of the 2011 Code of Iowa, as amended (the "Act"), as follows:

1. To establish a self-supported municipal improvement district in accordance with the Act in the City of Des Moines, Polk County, Iowa:

- (a) The name of which shall be the "Beaverdale Self-Supported Municipal Improvement District" (hereinafter referred to as the "Proposed District").
- (b) The purpose of the Proposed District is to acquire, construct, install and maintain the improvements described below, including the funding thereof.
- (c) The area of the Proposed District is shown on the map attached hereto as Exhibit "1" and consists of the properties described on the attached Exhibit "2", together with the intervening and adjoining public rights-of-way.

2. To undertake the acquisition, construction, installation, operation and maintenance within the public rights-of-way of Beverdale and Urbandale within the Proposed District of "improvements", as defined in the Act, consisting of improved sidewalks, curbs and cross-walks, landscaping, planters, decorative lighting, utility relocation, traffic signals, and related pedestrian improvements (which improvements are herein referred to as the "Improvements"), utilizing proceeds of the combined capital improvement and operation fund identified below, City funds designated in the Capital Improvement Program of the City for such purposes, and any other available funds.

3. To establish an operation fund with respect to the Proposed District to be known as the "Beaverdale Combined Self-Supported Municipal Improvement District Capital Improvement and Operation Fund", and to levy the annual tax described in paragraph 4 hereof (the "Capitol Improvement and Operation Tax") upon the property as defined in the Act within the Proposed District for the purposes described in paragraph 5 hereof, for an initial period of fifteen (15) years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2012 and continuing for fifteen (15) years thereafter. The City of Des Moines may renew the levy of the Capital Improvement and Operation Tax for subsequent five (5) year periods unless a petition containing the signatures of at least forty percent of all owners of property within the Proposed District or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the

Exhibit "1"

Proposed District, is filed with the City Clerk at least 6 months prior to the expiration of the current period. The City of Des Moines shall not renew the levy of the Capital Improvement and Operation Tax if such a petition is timely received.

4. To provide by ordinance that the rate of the Capital Improvement and Operation Tax to be levied annually as aforesaid shall not exceed the amount per thousand dollars (\$1,000) of taxable value of the property within the Proposed District in any one year specified by the table below, in addition to all other taxes, and to include within said ordinance appropriate options consistent with such maximum levy and the time limits specified in paragraph 3, to increase, extend and renew the Capital Improvement and Operation Tax based upon the useful life of the Proposed Improvements and the costs associated with the operations of the Proposed District.

<u>Fiscal Years of Levy</u>	<u>Max. levy per thousand dollars taxable value</u>
2012/13 to 2016/17	1.75
2017/18 and later	2.00

5. To use the proceeds of the Capital Improvement and Operation Tax for the purposes of paying (or reimbursing the City with respect thereto) all or part of the costs incurred in connection with the acquisition, construction, installation, operation and maintenance of the Improvements, any administration expenses (as defined in and authorized by the Act) of the Proposed District, including legal and engineering fees, and any other expenses reasonably incurred in fulfilling the purposes of the Proposed District, all as may be determined from time to time by the City Council.

We do hereby certify that we are the owners of the properties described below and are shown as owners on the transfer books in the office of the County Auditor. Subject to any ownership limitation set forth, the undersigned have full authority to execute this petition and to commit our property to its terms. Signers on behalf of corporations certify that they hold the corporate offices set forth opposite their names and have signed this petition with authorization by the Board of Directors and have full authority to bind and commit the corporation to the terms hereto.

Subject properties:

2632 Beaver Ave, more specifically described as: LOT 5 P J CLANCY PLACE PLAT 2, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Titleholder(s): James W. Hartzell (Trustee), James W. Hartzell (Trust), Deborah J. Hartzell (Trustee) and Deborah J. Hartzell (Trust)

Dated: 8-13, 2012

James W. Hartzell
James W. Hartzell (Trustee)

FAVOR
Position

Deborah J. Hartzell
Deborah J. Hartzell (Trustee)

favor
Position

PETITION (and Remonstrance)
OBJECTING
TO ESTABLISHMENT OF
THE BEAVERDALE SELF-SUPPORTING MUNICIPAL IMPROVEMENT
DISTRICT

Name: James W. Hartzell (Trustee), James W. Hartzell Trust
and
Deborah J. Hartzell (Trustee), Deborah J. Hartzell Trust
Titleholders of: 2632 Beaver Avenue, Des Moines, Iowa

The undersigned is the titleholder of the above mentioned property situated in the Beavertdale commercial district within the City of Des Moines, Iowa AND situated within a proposed self-supporting municipal improvement district designated as "The Beavertdale Self-Supporting Municipal Improvement District." See Exhibit "1" attached hereto and incorporated by reference.

Pursuant to Iowa Code Section 386.3(9) the undersigned property owner respectfully **OBJECTS** to the establishment of such a district; and seeks to have the entire matter of establishing such district withdrawn from council consideration.

It is the intention of the undersigned property owner that this Petition in opposition to the establishment of such a district also serves as a remonstrance pursuant to Iowa Code Section 386.3(7).

The undersigned hereby certifies to be the owners of the property legally described as follows:


Lot 5 in P J CLANCY PLACE PLAT 2, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

and are shown as titleholders on the transfer books in the office of the Polk County Auditor. Subject to any ownership limitation set forth, the undersigned have full authority to execute this Petition (and Remonstrance).

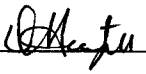
The undersigned state: that each named Trust is in existence; that James W. Hartzell is the current Trustee of the James W. Hartzell Trust; that Deborah J. Hartzell is the current Trustee of the Deborah J. Hartzell Trust; and that said Trustees are authorized to execute this Petition (and Remonstrance) on behalf of their respective Trust without limitation or qualification whatsoever.

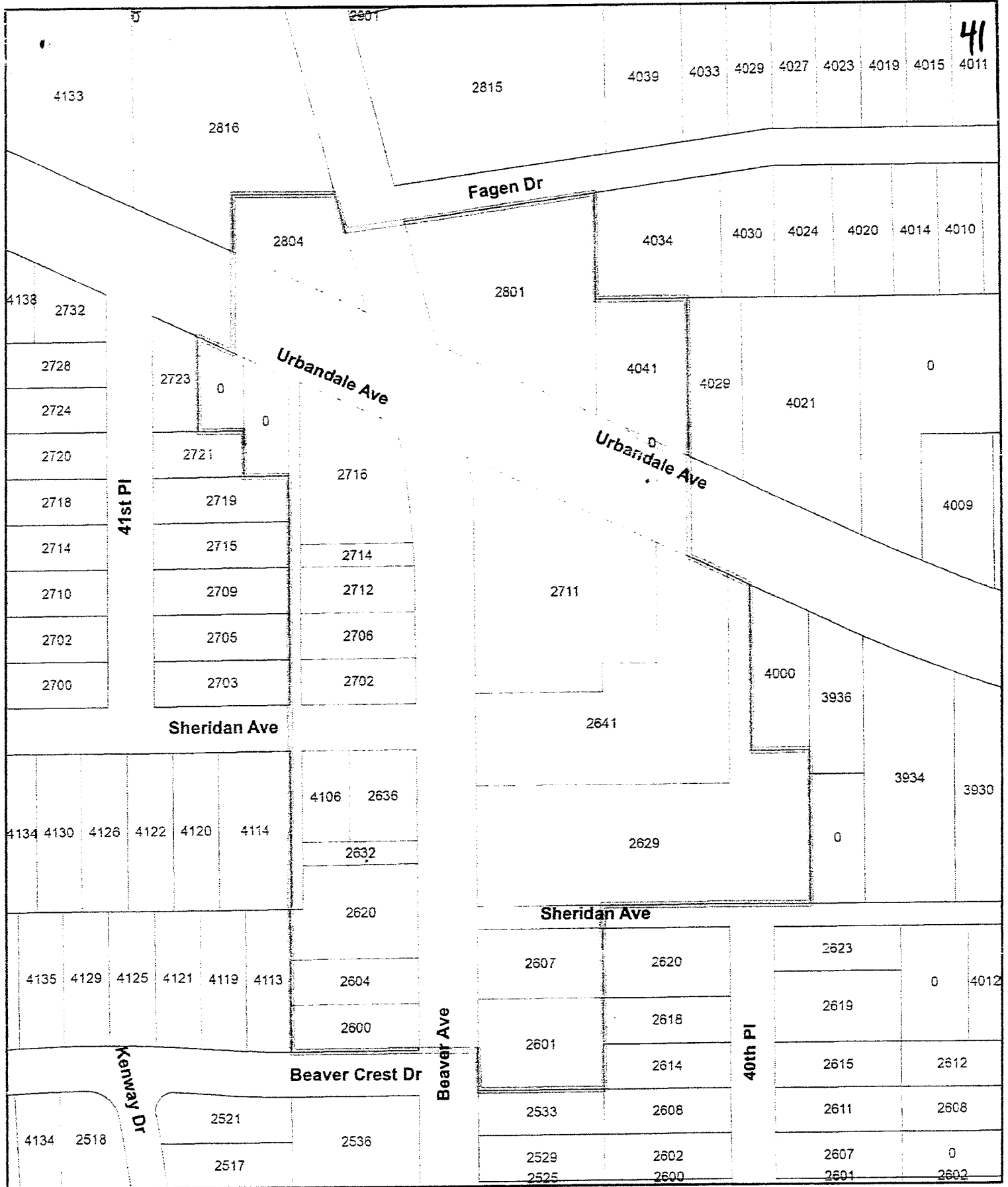
DATED this 30 day of oct, 2012.

Titleholder: James W. Hartzell Trust

By: 
James W. Hartzell, Trustee

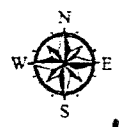
Titleholder: Deborah J. Hartzell Trust

By: 
Deborah J. Hartzell, Trustee



**Beaver Avenue Streetscape
Proposed SSMID Map**

April 13, 2012



**WITHDRAWAL OF PETITION
TO ESTABLISH THE BEAVERDALE
SELF-SUPPORTING MUNICIPAL IMPROVEMENT DISTRICT**

Name: James W. Hartzell (Trustee), James W. Hartzell Trust
and
Deborah J. Hartzell (Trustee), Deborah J. Hartzell Trust

Titleholders of: 2636 Beaver Avenue, Des Moines, Iowa and

Legally described as: The East 75 feet of Lots 1, 2, 3 & 4 in P J CLANCY PLACE
PLAT 2, an Official Plat, now included in and forming a part of
the City of Des Moines, Polk County, Iowa

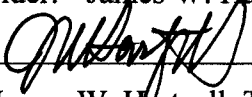
The undersigned is the titleholder of the above mentioned property situated in the Beaverdale commercial district within the City of Des Moines, Iowa AND situated within a proposed Self-Supporting Municipal Improvement District ("SSMID") designated as "The Beaverdale Self-Supporting Municipal Improvement District." See Exhibit "1" attached hereto and incorporated by reference.


On, or about, May 3, 2012, the undersigned titleholders executed a Petition, pursuant to Iowa Code Chapter 386, for the establishment of the above-mentioned proposed SSMID District in Beaverdale.

Said titleholders hereby **WITHDRAW** said Petition for the establishment of The Beaverdale Self-Supporting Municipal Improvement District.

The undersigned state: that each named Trust is in existence; that James W. Hartzell is the current Trustee of the James W. Hartzell Trust; that Deborah J. Hartzell is the current Trustee of the Deborah J. Hartzell Trust; and that said Trustees are authorized to execute this Withdrawal on behalf of their respective Trust without limitation or qualification whatsoever.

DATED this 30 day of Oct, 2012.

Titleholder: James W. Hartzell Trust
By: 
James W. Hartzell, Trustee

Titleholder: Deborah J. Hartzell Trust
By: 
Deborah J. Hartzell, Trustee

