



Date August 17, 2020

**RESOLUTION SETTING HEARING ON REQUEST FROM HAMILTON’S FUNERAL HOME TO AMEND PLANDSM FUTURE LAND USE DESIGNATION AND TO REZONE PROPERTY LOCATED AT 5310, 5314 AND 5400 SOUTHWEST 9<sup>TH</sup> STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 6, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Hamilton’s Funeral Home (owner), represented by Sasha Mudlaff (officer), to amend the PlanDSM: Creating Our Tomorrow future land use designation for real property locally known as 5310, 5314 and 5400 Southwest 9th Street (“Property”) from Low Density Residential to Neighborhood Mixed Use, to allow rezoning to RX1 Mixed Use District and expansion of the existing Funeral and Mortuary Services use on the existing property and development of a surface parking lot on the portion of the Property on the north side of Kenyon Avenue; and

**WHEREAS**, the City Plan and Zoning Commission has further advised that at a public hearing held on August 6, 2020, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Hamilton’s Funeral Home to rezone the Property from NX1 Neighborhood Mix District to RX1 Mixed Use District for the above-stated purpose; and

**WHEREAS**, the Property is legally described as follows:

Lots 6 and 7 except the south 50 feet, Macomers Subdivision, an Official Plat, now included in and forming a part of the city of Des Moines, Polk County, Iowa, except a part of Lots 6 and 7 described as follows: Beginning at the northeast corner of said Lot 6; thence 50 degrees 00’00”E along the east line of said Lots 6 and 7, a distance of 193.85 feet; thence N 89 degrees 33’10”W, 10.60 feet; thence N 2degrees 30’39” E, 193.98 feet; thence S 89 degrees 17’04” E along the north line of said Lot 6, a distance of 2.10 feet to the point of beginning. Containing 55,901 square feet, more or less. Subject to any easements or restrictions of record; and

Lots 149, 150, 151 and 152, Sheridan Place, an Official Plat, now included in and forming a part of the city of Des Moines, Polk County, Iowa, except a part of Lot 152 described as follows: Beginning at the NE corner of said Lot 152; thence S 0 degrees 4’51” E along the east line of said Lot 152, a distance of 139.87 feet to the southeast corner of said Lot 152; thence N 89 degrees 42’04” W along the south line of said Lot 152, a distance of 15.60 feet; thence N 0 degrees 44’37” E, 139.87 feet to a point on the north line of said Lot 152; thence S 89 degrees 41’03” E along said north line 13.59 feet to the point of beginning containing 29,954 square feet more or less, subject to any easements or restrictions of record.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed amendment to the comprehensive plan future land use designation and proposed zoning are to be considered, and at which time

**Date** August 17, 2020

the City Council will hear both those who oppose and those who favor the proposals, shall be held at 5:00 p.m. on September 14, 2020, by electronic means to encourage and maintain social distancing to curb the spread of COVID19 in the community, without public access to the meeting location.

3. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code. The City Clerk is instructed to provide this notice including information about participation in the electronic meeting as indicated above.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

/s/Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

(21-2020-4.13)  
(ZON2020-00082)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, P. KAY CMELIK, 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.

\_\_\_\_\_  
City Clerk



Date August 17, 2020  
 Agenda Item 20  
 Roll Call # \_\_\_\_\_

August 11, 2020

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their August 6, 2020 meeting, the following action was taken regarding a request from Hamilton’s Funeral Home (owner) represented by Sasha Mudlaff (officers) to rezone property located at 5400 Southwest 9<sup>th</sup> Street from “NX1” Neighborhood Mix District to “RX1” Mixed Use District to allow the expansion of the existing Funeral and Mortuary Services use on the existing property and development of a surface parking lot on the portion of the property on the north side of Kenyon Avenue. Additional subject property is owned by Carlton D. Peterson and Carlton D. Peterson Trust.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	X			
Lisa Howard				X
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

**APPROVAL** of Part A) the proposed rezoning to “RX1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Public/Semi-Public.”, Part B) **APPROVAL** of amending the PlanDSM Creating Our

Tomorrow Plan future land use designation from Low Density Residential to Neighborhood Mixed Use and Part C) **APPROVAL** of rezoning the subject property from “NX1” Neighborhood Mix District to “RX1” Mixed-Use District.

(21-2020-4.13) & (ZON2020-00082)

### Written Responses

4 in Favor

0 in opposition

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning to “RX1” District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of “Public/Semi-Public.”

Part B) Staff recommends approval of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Neighborhood Mixed Use.

Part C) Staff recommends approval of rezoning the subject property from “NX1” Neighborhood Mix District to “RX1” Mixed-Use District

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The subject site consists of the applicant’s existing funeral home business on the southwest corner of the SW 9<sup>th</sup> Street and Kenyon Avenue intersection and property on the northwest corner of the intersection that contains a storage building. The proposed rezoning would allow the construction of an addition to the rear of the existing funeral home building and the development of a surface parking lot on the property to the north of Kenyon Avenue. The existing storage building would be demolished.

2. **Size of Site:** 81,855 square feet (1.88 acres).

3. **Existing Zoning (site):** “NX1” Neighborhood Mix District.

4. **Existing Land Use (site):** The site contains a funeral home business and storage building.

#### **5. Adjacent Land Use and Zoning:**

**North** – “N3a” & “NX1”; Uses are an auto repair business and a one household dwelling.

**South** – “NX2”; Use is the Orchard Place Children’s Home.

**East** – “NX1”; Uses are one household dwellings.

**West** – “N3a”; Use is the Orchard Place Children’s Home.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the SW 9<sup>th</sup> Street corridor in an area that contains a mix of commercial and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Watrous South Neighborhood and within 250 feet of the Fort Des Moines Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 17, 2020 and by mailing of the Final Agenda on July 31, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on July 17, 2020 (20 days prior to the public hearing) and on July 27, 2020 (10 days prior to the public hearing) to the Watrous South Neighborhood Association, the Fort Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Watrous South Neighborhood mailings were sent to James Spiller, P.O. Box 35845, Des Moines, IA 50315. The Fort Des Moines Neighborhood mailings were sent to Scott Durham, 301 East Kenyon Avenue, Des Moines, IA 50315.

8. **Relevant Zoning History:** N/A.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The subject property is designated as “Low Density Residential” on the Future Land Use Map. Plan DSM describes this designation as follows:

Low Density Residential: Areas developed with primarily single family and two family residential units with up to 6 dwelling units per net acre.

The applicant is proposing to rezone the property from “NX1” Neighborhood Mix to “RX1” Mixed-Use District. The Zoning Ordinance states that “NX1 is intended for a mix of single- and smaller-scaled multiple-household uses and building forms to preserve the scale and character of the existing neighborhood while allowing for new infill housing.” Building types allowed in this district include the Civic Building, Row Building, House C and House D.

The proposed "RX1" District requires the "Neighborhood Mixed Use" future land use map designation. Plan DSM describes this designation as follows:

Neighborhood Mixed Use: Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing multiple neighborhoods and may include specialty retail that attracts regional customers.

The Zoning Ordinance states that "RX1 is intended for transitional areas between MX districts and N districts, providing for residential and office building at a scale and intensity appropriate for corridors adjacent to low-scale neighborhoods." Building types allowed in this district include the Commercial Cottage, General Building, Principal-Use Parking Structure Civic Building, Flat Building and Row Building.

The subject site is located along the SW 9<sup>th</sup> Street, which is a significant transportation corridor that contains a mix of uses. The proposed land use map designation and zoning district are appropriate to the character of the area and align with the goals of Plan DSM.

2. **Planning and Design Ordinance:** Any development must comply with all applicable site plan and design regulations of the Planning and Design Ordinance.
3. **Grading & Storm Water Management:** Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.
4. **Utilities:** All necessary utilities are located within the adjoining street rights-of-way.

## **SUMMARY OF DISCUSSION**

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

## **COMMISSION ACTION:**

Will Page made a motion for approval of Part A) the proposed rezoning to "RX1" District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of "Public/Semi-Public.", Part B) **APPROVAL** of amending the PlanDSM Creating Our Tomorrow Plan future land use designation from Low Density Residential to Neighborhood Mixed Use and Part C) **APPROVAL** of rezoning the subject property from "NX1" Neighborhood Mix District to "RX1" Mixed-Use District.

Motion passed: 13-0

Respectfully submitted,



Jason Van Essen, AICP  
Senior City Planner

JVE:tjh

<b>Request from Hamilton's Funeral Home (owner) represented by Sasha Mudlaff (officers) for the properties located at 5310, 5314, and 5400 Southwest 9<sup>th</sup> Street.</b>				<b>File #</b>	
				21-2020-4.13	
<b>Description of Action</b>	Amend PlanDSM Creating Our Tomorrow Comprehensive Plan the revise the future land use classification from Low Density Residential to Neighborhood Mixed Use.				
<b>PlanDSM Future Land Use</b>	Current: Low Density Residential. Proposed: Neighborhood Mixed Use.				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"NX1" Neighborhood Mix District.				
<b>Proposed Zoning District</b>	"RX1" Mixed Use District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
<b>Outside Area (200 feet)</b>	0	0			
<b>Within Subject Property</b>					
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Hamilton's Funeral Home, 5310, 5314, and 5400 Southwest 9th Street

21-2020-4.13



1 inch = 129 feet

<b>Request from Hamilton's Funeral Home (owner) represented by Sasha Mudlaff (officers) for the properties located at 5310, 5314, and 5400 Southwest 9<sup>th</sup> Street.</b>				<b>File #</b>	
				ZON2020-00082	
<b>Description of Action</b>	Rezoning property from "NX1" Neighborhood Mix District to "RX1" Mixed Use District to allow the expansion of the existing Funeral and Mortuary Services use on the existing property and development of a surface parking lot on the portion of the property on the north side of Kenyon Avenue.				
<b>PlanDSM Future Land Use</b>	Current: Low Density Residential Proposed: Neighborhood Mixed Use				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"NX1" Neighborhood Mix District				
<b>Proposed Zoning District</b>	"RX1" Mixed Use District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
<b>Outside Area (200 feet)</b>	4	0			
<b>Within Subject Property</b>					
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Hamilton's Funeral Home, 5310, 5314, and 5400 Southwest 9th Street

ZON2020-00082

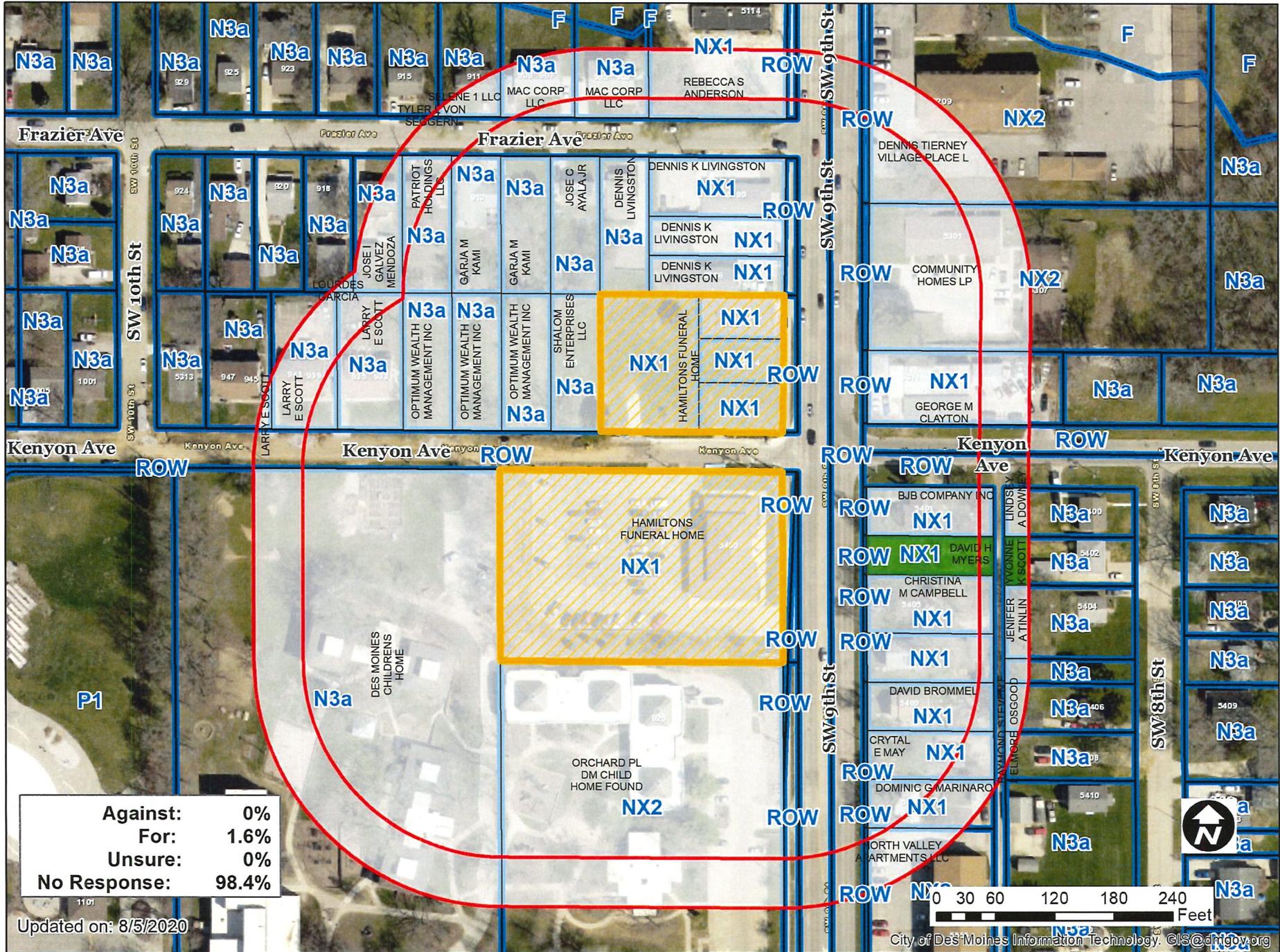


1 inch = 129 feet

20

# Hamilton's Funeral Home, 5310, 5314, and 5400 Southwest 9th Street

ZON2020-00082



20

1 inch = 129 feet

Item: ZON2020-00082 Date: 7-29-2020

I  (am)  (am not) in favor of the request:

(Circle One)

Print Name: Sasha Mudlaff

RECEIVED  
COMMUNITY DEVELOPMENT

Signature: Sasha Mudlaff

AUG 3 2020

Address: 605 Lyon St., DSM 50309

Reason for opposing or approving this request may be listed below:

This will be an amazing improvement  
& enhancement to our neighborhood.  
Thank you, Hamilton's!

Item: ZON2020-00082

Date: July 29, 2020 <sup>20</sup>

(am)  (am not) in favor of the request:

(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
AUG 3 2020

Print Name: Yvonne Scott

Signature: Yvonne Scott

Address: 5402 S.W. 8th

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: ZON2020-00082

Date: July 28, '20

(am)  (am not) in favor of the request: !

(Circle One)  
**RECEIVED**  
COMMUNITY DEVELOPMENT  
AUG 3 2020

Print Name: David H. Myers

Signature: David Myers

Address: 5403 SW 9th St, Dsm 50315

Reason for opposing or approving this request may be listed below:

Great project By Hamilton's  
to enhance services to our  
Southside Community!