



**DENVER**  
THE MILE HIGH CITY

201 W Colfax Ave, Dept 205  
Denver, CO 80202  
p: 720-865-2915  
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www.denvergov.org/planning

**TO: City Council Land Use, Transportation and Infrastructure Committee**  
**FROM: Theresa Lucero, Senior City Planner**  
**DATE: May 9, 2013**  
**RE: Zoning Map Amendment #2012I-00043**  
**5042-44 North Federal Boulevard**  
**Rezoning from E-CC-3X to E-MX-3A**

**Staff Report and Recommendation**

Based on the criteria for review including legal basis evaluation and compliance with adopted City plans, Staff recommends **approval** for proposed map amendment #2012I-00043 for a rezoning from E-CC-3X to E-MX-3A.

**I. Scope of Rezoning**

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Proposed Map Amendment: **#2012I-00043**  
Address: 5042-44 North Federal Boulevard  
Neighborhood/Council District: Chaffee Park Neighborhood / City Council District #1  
RNOs: Berkeley Neighborhood Association;  
Berkeley Regis United Neighbors, Inc.;  
Chaffee Park Neighborhood Association;  
Federal Boulevard Corridor Improvement Partnership;  
Inter-Neighborhood Cooperation;  
Northwest Neighbors Coalition;  
Northwest Quadrant Association  
  
Area of Property: 0.14 Acres / 6,070 SF  
Current Zoning: E-CC-3X  
Proposed Zoning: **E-MX-3A**  
Applicant/Owner: Eric Johanson, Applicant  
Contact Person: Eric Johanson

**II. Summary of Proposal and Existing Conditions**

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With the proposed rezoning the applicant, who leases the existing commercial structure, proposes to rezone to a different commercial zone district that will allow him to add an additional commercial land use to his existing business. The applicant currently operates a barber shop and proposes a zone district that will allow him to add a body art establishment land use to his business. The current zoning of the subject property is E-CC-3X, or Urban **E**dge context, **C**ommercial **C**orridor with a maximum height of three stories. The E-CC-3X zone district is a commercial corridor zone district intended for use on auto-oriented arterial streets which allows less intense land uses than the E-CC-3 zone district.

The proposed E-MX-3A zone district, or Urban **E**dge context, **M**ixed **U**se with a maximum height of three stories, is also intended for use on arterial streets where pedestrian-scaled mixed-use areas are desirable. The building form standards of the Mixed Use zone districts balance the

importance of street presence and provision of parking with build-to requirements, ground story activation and parking lot screening along the right-of-way. The Mixed Use zone district standards are intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.

The subject property is located mid-block on the east side of the Federal Boulevard block between West 50<sup>th</sup> and 51<sup>st</sup> Avenues in the Chaffee Park Neighborhood. The structure is between other existing commercial structures which are located directly at the front property line. Other structures on the block are located behind parking lots or fuel pump canopies. Directly adjacent to the property on the north is an office, directly south is a beauty shop and nail salon, on the east, across an alley, is a single family home, and west, across Federal Boulevard, is a parking lot for Regis University. In the general vicinity are Berkeley Hills Park on the Marycrest campus to the northeast, Beach Court Elementary School to the southeast, Interstate 70 to the south, Regis University to the west and the northern city boundary 2 blocks to the north. The local block pattern south of 52nd Avenue consists primarily of traditional rectilinear blocks shaped by a grid street pattern with alleys and attached sidewalks. The block patterns north of 52nd Avenue and on the Regis University campus are larger lots of varying size, typically with no sidewalks and alleys.

**III. Legal Justification for Rezoning**

**Changing Conditions**

Due to changing economic conditions the applicant is attempting to rezone to a different commercial zone district that will allow him to expand his business into additional personal services. Both the existing barber shop land use and the proposed body art establishment land use are allowed in the E-MX-3A zone district.

**IV. Existing Context**

	Existing Zoning	Existing Land Use	Blueprint Denver
<b>Site</b>	E-CC-3X	Existing Non-residential structure	Area of Stability Neighborhood Center
<b>North</b>	E-CC-3X	Existing Non-residential structure	Area of Stability Neighborhood Center
<b>South</b>	E-CC-3X	Existing Non-residential structure	Area of Stability Neighborhood Center
<b>West</b>	B-3	Surface Parking	Area of Stability Neighborhood Center
<b>East</b>	E-SU-DX	Single-family Residential	Area of Stability Single Family Residential



*Commercial structures north of subject property*



*Commercial structures south of subject property*



*Subject Property*



*Single-unit residential east of subject property.*



*Surface parking west of subject property*

## V. Summary of Legal Notice and Public Process

### Planning Board

The property was posted with notification signs and written notification of the March 20, 2013, Planning Board meeting was sent to all affected Registered Neighborhood Associations 15 days prior to the meeting. At the meeting the Planning Board voted to recommend approval of the proposed rezoning by a vote of 7 to 1.

### Land Use, Transportation and Infrastructure Committee

Electronic notice was sent out to all affected Registered Neighborhood Associations 10 days prior to the April 9, 2013, Committee meeting.

### City Council Public Hearing

The property was posted with notification signs and written notification was sent to all affected Registered neighborhood Associations 21 days prior to the May 13, 2013, public hearing.

## VI. Community Response

To date no public comment has been received.

## VII. Criteria for Review

The criteria for review of this rezoning application include conformance with adopted regulations, and with the Comprehensive Plan and applicable supplements. Applicable documents are:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver*
- *Federal Boulevard Corridor Plan (1995)*
- *Denver Zoning Code*

### A. Denver Comprehensive Plan 2000

The proposal is consistent with and positively addresses many Denver Comprehensive Plan strategies, including:

- Economic Activity chapter, Strategy 3-B is to “**Support retention and expansion of businesses in industries historically important to Denver, including small business, health care, manufacturing, and federal and state government.**” (p. 133)
- Economic Activity chapter, Strategy 5-A is to “**Support small-scale economic development in neighborhoods...**” (p. 136)
- Land Use chapter, Strategy 3-B is to “**Encourage quality infill development that is consistent with the character of the surrounding neighborhood...**” (p.60).

### B. Blueprint Denver

Blueprint Denver, the City’s Land Use and Transportation Plan, identifies the property as being within an *Area of Stability* with a land use recommendation of *Neighborhood Center*. The



Blueprint Denver street type for north Federal Boulevard is Residential Arterial. On Residential Arterials transportation choices are balanced with land access.

The goal of Areas of Stability is to maintain the character of an area while accommodating some new development and redevelopment. Neighborhood Centers are mixed use areas which serve the everyday shopping, personal service or entertainment needs of one or more neighborhoods. The proposed rezoning allows reinvestment in the area which is consistent with the Blueprint Denver strategy of reinvestment in Areas of Stability. The mixed use zone district is consistent with the Neighborhood Center concept. The E-MX-3A zone district will allow the new body art establishment use and the existing barber shop to coexist within the same structure.

In addition, the form standards of the E-MX-3A zone district are a better fit for the existing commercial structure which is located at the front property line with no front setback. The E-CC-3x zone district allows parking between the building and the front property line.

### **C. Federal Boulevard Corridor Plan (1995)**

The Federal Boulevard Corridor Plan was adopted in 1995, and readopted as a supplement to the Denver Comprehensive Plan 2000. The purpose of the Plan was to define recommended improvements within the public right-of-way and to establish development guidelines for properties adjacent to the Federal Boulevard public right-of-way.

Within the Plan are “Neighborhood Protection Elements (North Segment)...for consideration by the City to retain single family structures for residential use” (p.51). The recommendations include:

1. “...Commercial development should be limited to existing zoned nodes of development.
2. If rezonings are proposed, the Planned Unit Development (PUD) process is encouraged along with the following criteria:
  - a. Uses are neighborhood retail or service;
  - b. Structures are residential in scale and residential character of existing structures is retained;
  - c. Transition and buffers to residential uses are provided;
  - d. Landscaping and screening are provided for visual enhancement;
  - e. No additional right-of-way on Federal Boulevard is required for acceleration/deceleration lanes.”

The proposed rezoning conforms with the Federal Boulevard Corridor Plan because the proposed rezoning conforms with the plan recommendations that commercial uses remain within existing commercial areas, because the existing low-scale commercial structure is in scale with the surrounding commercial and residential neighborhood, and because the existing alley provides a buffer to the residential uses to the east.

### **D. Denver Zoning Code**

The Denver Zoning Code (Section 12.4.10) requires all Official Map Amendments to comply with the following criteria.

#### **1. General Review Criteria Applicable to All Zone Map Amendments (Section 12.4.10.13)**

As proposed, rezoning #2012I-00043 is consistent with the general review criteria outlined in this section of the Denver Zoning Code including:



- A. Consistency with Adopted Plans:** Rezoning #2012I-00043 implements and is consistent with recommendations in adopted plans.
- B. Uniformity of District Regulations and Restrictions:** Rezoning the site to E-MX-3A will have no effect on the uniformity of district regulations.
- C. Public Health, Safety and General Welfare:** The proposed map amendment furthers the public health, safety and general welfare of the City.

**2. Additional Review Criteria for Non-legislative Rezoning (Section 12.4.10.14)**

**A. Justifying Circumstances**

Denver Zoning Code criteria is that the land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area. The proposed zone district, E-MX-3A, is in response to changing economic conditions and the need to expand the number of services offered to local customers. The existing zoning of the property, E-CC-3X was put in place in response to the commercial nature of the street and the Plan recommendation of Neighborhood Center. The proposed E-MX-3A zone district also conforms with the Neighborhood Center Plan recommendations and allows the new proposed land use to also occupy the existing commercial structure. And the scale of the existing structure is compatible with both the existing commercial corridor and the surrounding residential neighborhood.

**B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

Denver Zoning Code Criteria is that the proposed official map amendment should be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. The Urban Edge Context is characterized by mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is distinguished by low scale buildings except for some mid- rise commercial and mixed use structures, particularly at nodes or along arterial streets.

Residential uses are primarily single-unit and two-unit residential uses with small-scale multi-unit residential uses and commercial areas typically embedded in residential areas. Single-unit residential structures are typically Urban House forms with some Suburban House forms. Multi-unit forms are typically Town House, Garden Court, or Apartment forms embedded with other residential forms. Commercial buildings are typically Shopfront and General forms that typically contain a single type of use. The street and block patterns are rectilinear shaped blocks shaped by a grid street system with a mixed presence of alleys. The context is described in Section 4.1 of the Denver Zoning Code.

The Mixed Use Zone Districts are intended to promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods. There is a diverse menu of Mixed Use Zone Districts in the Urban Edge Neighborhood Context to recognize the diverse pattern of mixed use places in these neighborhoods. The Mixed Use districts are appropriate along corridors, embedded in neighborhoods and on large sites.

The building form standards of the Mixed Use Zone Districts balance the importance of street presence and provision of parking through build-to requirements, ground story

activation and parking lot screening along the right-of-way. Predictable flexibility in building form options recognizes the varied development pattern of Urban Edge Neighborhoods. The Mixed Use Zone District standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.

The E-MX-3A zone district is intended to ensure new development contributes positively to both our commercial corridors and established residential neighborhoods and character, and that they improve the transition between commercial development and adjacent residential neighborhoods. The Mixed Use districts are intended for corridors, embedded neighborhood business areas and larger sites. The mixed use design standards support a consistent pattern of buildings placed at the street to offer an active pedestrian-oriented street front. Both the existing barber shop and the proposed body art establishment are allowed land uses in the E-MX-3A zone district

The differences between the E-CC-3X and the E-MX-3A zone districts are in both the land uses allowed and in the building form standards. The E-MX-3A district allows seven land uses (with limitations) that the E-CC-3x district does not allow. Of the seven, one use, *General Manufacturing* would not be allowed on the subject property due to its proximity to the adjacent residential zone district. The remaining six new land uses allowed by the E-MX-3A zone district include *Body Art Establishment* (only 2 such uses are allowed within 1,000 feet of each other); *Retail Sales Service & Repair, Outdoor* (limited to outdoor retail sales); *Automobile/Motorcycle/Light Truck Sales, Leasing, Pawn Lot or Vehicle Auctioneer* (limited by external effects on adjoining residential land uses); *Contractor, Special Trade, General* (limits on size of trucks allowed to be parked on the property); *Laboratory, Research, Development, Technological Service* (may include a small storage space for parts and supplies); *Mini-storage Facility* (may not have individual outside entrances). Some of the new land uses on the subject property may be further limited by the existing conditions of the subject property. These further limitations include the embedded nature of the existing structure, the relatively small size of the zone lot and the location of the existing parking in the rear of the structure. With the limitations on the newly allowed land uses and the challenges of the existing property, staff is comfortable recommending the change to a different but compatible commercial zone district, the E-MX-3A zone district.

The primary differences between the E-CC-3X and the E-MX-3A zone districts in building form standards include the build-to requirement to the primary street and allowed parking location. In the E-MX-3A zone district the building is required to be within 15 feet of the primary street and does not allow parking between the structure and the front property line. In the E-CC-3x zoned district the structure may be within 80 feet of the primary street and parking is allowed between the building and the street. Given that the existing structure is located at the front property line, the form standards of the E-MX-3A zone district are a better fit for preserving the existing built form of the existing commercial structure.

### **VIII. Staff Recommendation**

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Based on the criteria for review as defined above, Staff recommends **approval** for rezoning the properties located at 5042-44 North Federal Boulevard (Proposal #2012I-00043) to E-MX-3A.

#### **Attachments:**

- 1. Application**
- 2. Map Series – (Aerial, Zoning, Blueprint Map)**





DENVER  
THE MILE HIGH CITY

COMMUNITY PLANNING & DEVELOPMENT

# CUSTOMER GUIDE

Appendix Page 1

## Zone Map Amendment (Rezoning) - Application

1/26/12

<input type="checkbox"/> <b>PROPERTY OWNER INFORMATION*</b>		<input type="checkbox"/> <b>PROPERTY OWNER(S) REPRESENTATIVE**</b>	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	Anna Im	Representative Name	Eric Johanson
Address	5042 N. Federal Blvd.	Address	5042 N. Federal Blvd
City, State, Zip	Denver CO 80211	City, State, Zip	Denver CO 80211
Telephone	303-359-3103	Telephone	720-365-1927
Email	annaim28@gmail.com	Email	ataak725@gmail.com
*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.		**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.	
Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.			
<b>SUBJECT PROPERTY INFORMATION</b>			
Location (address and/or boundary description):	5042-44 N. Federal Blvd. Denver 80211		
Assessor's Parcel Numbers:	021740900 & 4000		
Legal Description: (Can be submitted as an attachment. If metes & bounds, a map is required.)	Friends Resubdivision, Block 17, E. Berkeley		
Area in Acres or Square Feet:	6070 Sq Feet		
Current Zone District(s):	E-CC-3X		
<b>PROPOSAL</b>			
Proposed Zone District:	E-MX-3A		

www.denvergov.org/rezoning

**311**  
for City Services  
Denver gets it done!

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

(720) 865-2983 • rezoning@denvergov.org



**REVIEW CRITERIA**

Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan

General Review Criteria: The proposal must comply with all of the general review criteria

Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.

DZC Sec. 12.4.10.13

Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.

Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.

Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria

DZC Sec. 12.4.10.14

Justifying Circumstances - One of the following circumstances exists:

- The existing zoning of the land was the result of an error.
- The existing zoning of the land was based on a mistake of fact.
- The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.
- The land or its surroundings has changed or is changing to such a degree that rezoning that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area
- It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.

Please provide an attachment describing the justifying circumstance.

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.

Please provide an attachment describing how the above criterion is met.

**ATTACHMENTS**

Please check any attachments provided with this application:

- Authorization for Representative
- Proof of Ownership Document(s)
- Legal Description
- Review Criteria

Please list any additional attachments:

Empty box for listing additional attachments.



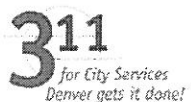
DENVER  
THE MILE HIGH CITY

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
<i>Anna Im</i>	<i>5042 N. Federal Denver CO 80211</i>	<i>100%</i>	<i>[Signature]</i>	<i>11/14/12</i>	<i>B</i>	<i>Yes</i>

[www.denvergov.org/rezoning](http://www.denvergov.org/rezoning)



201 W. Colfax Ave., Dept. 205

Denver, CO 80202

(720) 865-2983 • [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

## Consistency With Plans

5042 North Federal Blvd  
Denver, CO 80221

CITY AND COUNTY OF DENVER

2013 JAN 29 AM 10:15

COMMUNITY PLANNING  
AND DEVELOPMENT

Environmental Sustainability Chapter, Strategy 2-E, "Conserve raw materials by:...Promoting efforts to adapt existing buildings for new uses, rather than destroying them."

- Environmental Sustainability Chapter, Strategy 2-F, "Conserve land by:... Promoting infill development within Denver at sites where services and infrastructure are already in place. Also by "Designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods."

Legal Description

Lot 7,  
Friends Resubdivision, Block 17,  
East Berkeley,

City and County of Denver  
State of Colorado

CITY AND COUNTY OF DENVER  
2013 JAN 29 AM 10:15  
COMMUNITY PLANNING  
AND DEVELOPMENT

5042 Federal Boulevard  
Denver, CO 80221

2009-10-17  
COUNTY OF JEFFERSON  
STATE OF COLORADO  
RECORDS & CLERK  
1000 14TH ST., DENVER, CO 80202  
TEL: (303) 292-2500 FAX: (303) 292-2501  
WWW.BRADFORDPUBLISHING.COM

**QUITCLAIM DEED**

**THIS DEED** is dated August 20, 20 09, and is made between Andrew B. Im and Sook Yeon Im

(whether one, or more than one), the "Grantor," of the \*  
County of Jefferson and State of Colorado  
and Anna Im

(whether one, or more than one), the "Grantee," whose legal address is 2471 S Zinnia Way, Lakewood, Co. 80228  
of the County of Jefferson and State of Colorado

**WITNESS**, that the Grantor, for and in consideration of the sum of  
one DOLLARS, (\$ 1.00),  
the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, sell and QUITCLAIM unto the  
Grantee and the Grantee's heirs and assigns, forever, all the right, title, interest, claim and demand which the Grantor has in  
and to the real property, together with any improvements thereon, located in the County of  
Denver and State of Colorado, described as follows:

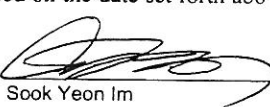
Lot 7,  
Friends Resubdivision, Block 17,  
East Berkeley,  
  
City and County of Denver  
State of Colorado

also known by street address as: 5042-5044 Federal Blvd. Denver, Co. 80221  
and assessor's schedule or parcel number: 02174-09-004-000

**TO HAVE AND TO HOLD** the same, together with all and singular the appurtenances and privileges thereunto belonging,  
or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the Grantor, either in law  
or equity, to the only proper use, benefit and behoof of the Grantee, and the Grantee's heirs and assigns, forever.

**IN WITNESS WHEREOF**, the Grantor has executed this deed on the date set forth above.

  
\_\_\_\_\_  
Andrew B. Im

  
\_\_\_\_\_  
Sook Yeon Im

\*Insert "City and" where applicable.





STATE OF COLORADO

County of Jefferson

} ss.

The foregoing instrument was acknowledged before me this 20 day of August, 2009  
by

Witness my hand and official seal.

My commission expires:

GARI N. SCHMIDT  
NOTARY PUBLIC  
STATE OF COLORADO

Gari N Schmidt  
Notary Public

My Commission Expires 02/28/12

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

To: Whom may concern.

11/14/2012

Re: 5042 Federal Blvd.  
Denver, Co. Aus 11

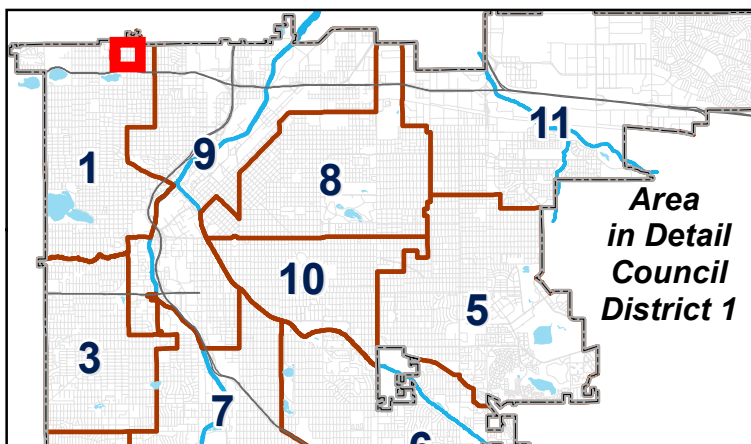
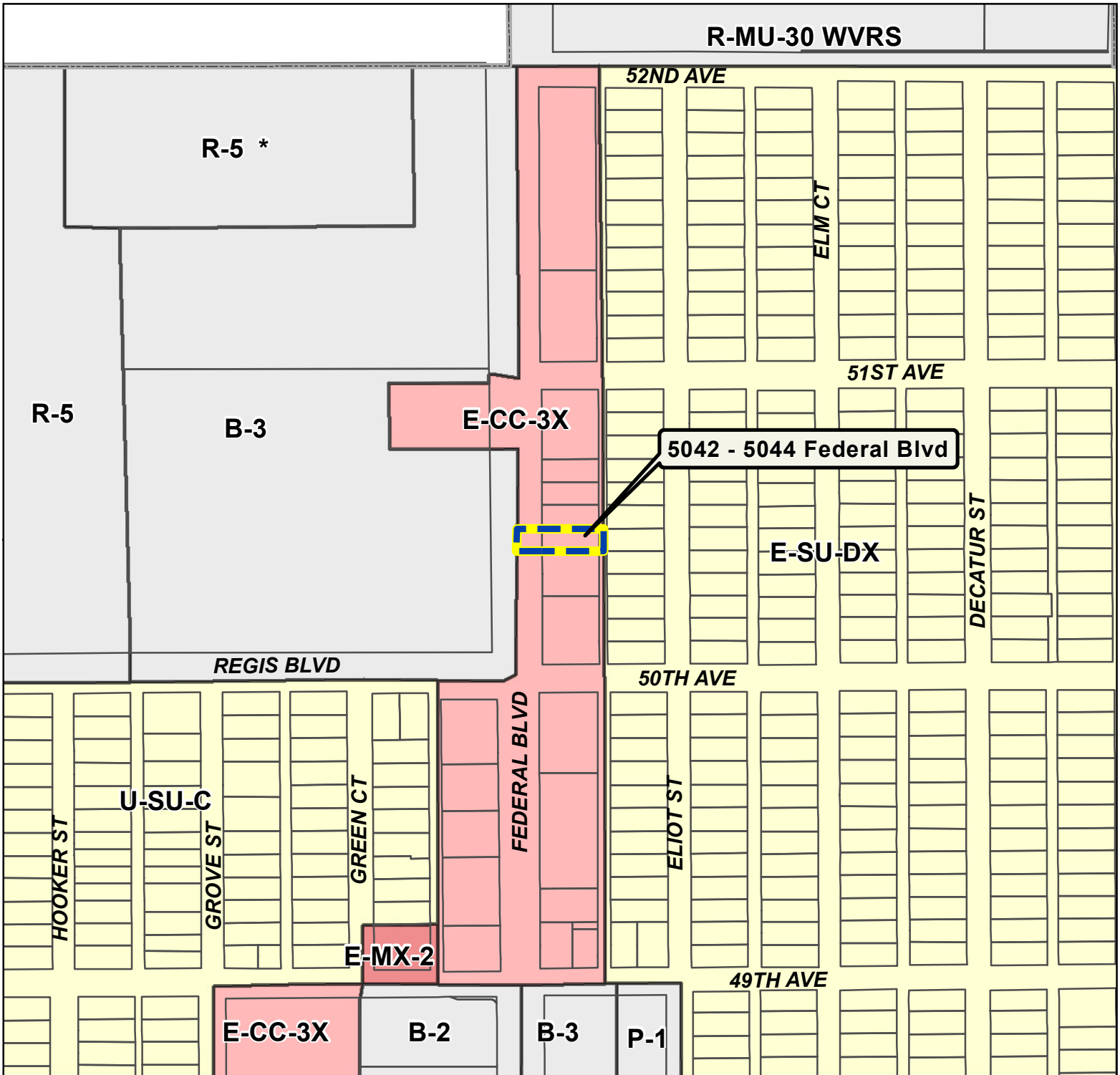
Subject: Rezoning Application  
Authorization.

I, Anna Im, am a property owner of  
Subject Address give authorization to  
Eric Johnson to apply rezoning.

Anna Im  
(303-359-3103)

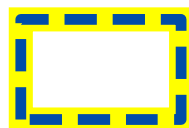


# Pending Zone Map Amendment #2012i-00043

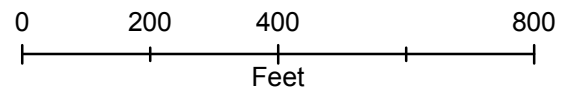


Application #2012i-00043

Location: 5042 - 5044 Federal Blvd.



Proposed Rezoning  
From: E-CC-3X  
To: E-MX-3A



Map Date: 12/12/12

Adams County



52ND AVE

ELM CT

51ST AVE

DECATUR ST

ELIOT ST

50TH AVE

REGIS BLVD

FEDERAL BLVD

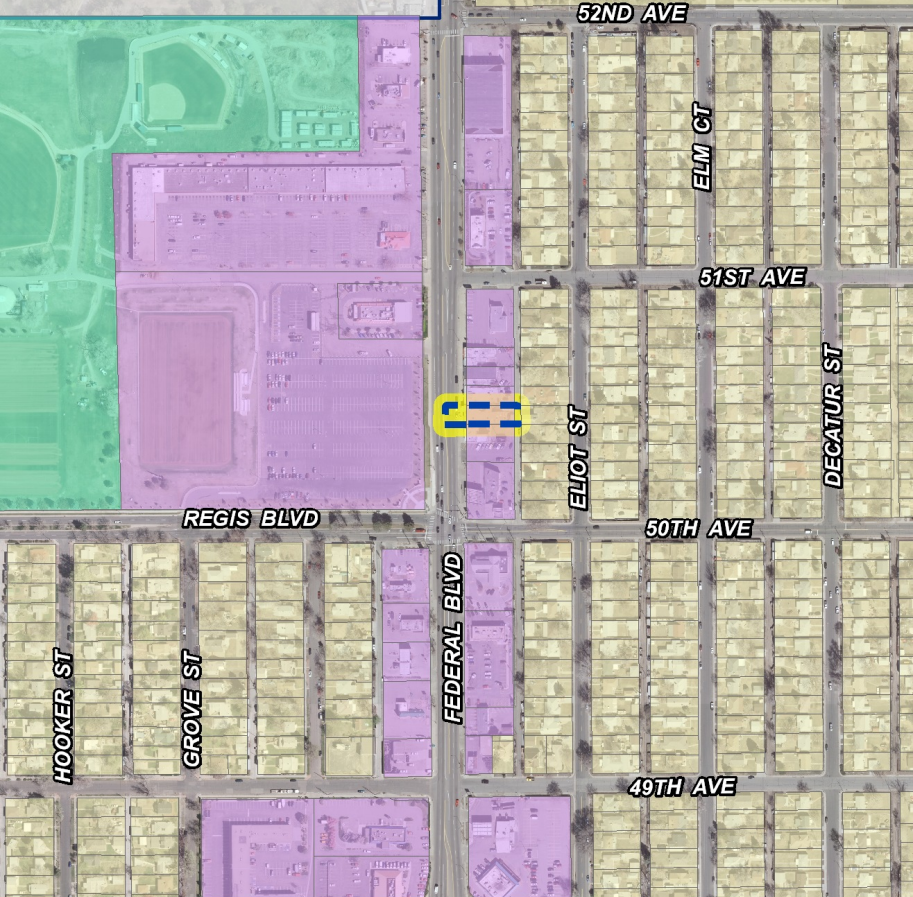
49TH AVE

HOOKER ST

GROVE ST

Aerial - 2010

# Adams County



Campus



Neighborhood Center



Single Family Residential

**Entire Area of Map is Area Of Stability**