



DENVER
THE MILE HIGH CITY

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www.denvergov.org/planning

TO: City Council Land Use, Transportation and Infrastructure Committee
FROM: Theresa Lucero, Senior City Planner
DATE: March 28, 2012
RE: Zoning Map Amendment Application #2011I-00044
4100 North Federal Boulevard
Rezoning from U-SU-C1 to U-MX-2x

Staff Report and Recommendation

Based on the criteria for review, Staff recommends **approval** for application #2011I-00044 for a rezoning from U-SU-C1 to U-MX-2x.

I. Scope of Rezoning

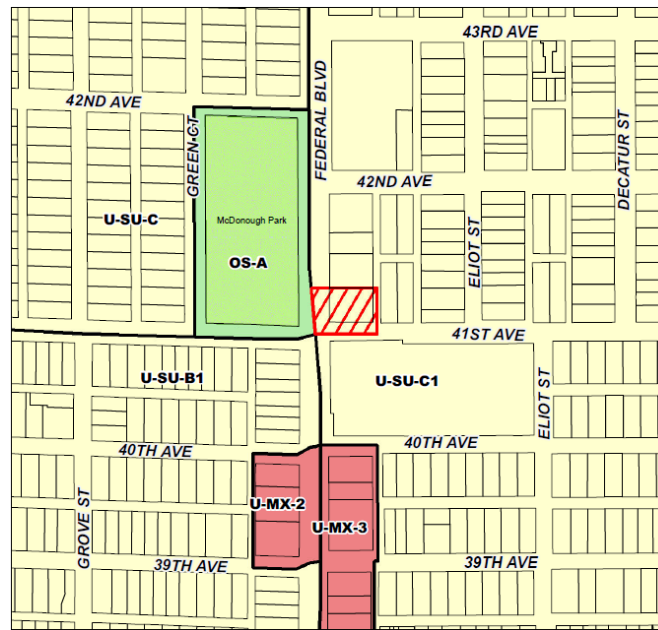
Application: **#2011I-00044**
Address: 4100 North Federal Boulevard
Neighborhood/Council District: Sunnyside Neighborhood / Council District #1
RNOs: Berkeley Regis United Neighbors, Inc.; Federal Boulevard Corridor Improvement Partnership; Harkness Heights Neighborhood Association; Northwest Neighbors Coalition; Northwest Quadrant Association; Sunnyside United Neighbors, Inc.; West 38th Avenue Merchants Association; Inter-neighborhood Cooperation

Area of Property: 0.29 Acres; 12,500 SF
Current Zoning: U-SU-C1
Proposed Zoning: **U-MX-2x**
Applicant/Owner: Laura Lechuga
Contact Person: Vanessa Guzman

II. Summary of Proposal and Existing Conditions

The subject property is located on the east side of North Federal Boulevard at the northeast corner of Federal Boulevard and 41st Avenue. The site contains a one-story commercial building built in 1925 that is currently vacant. The applicant is proposing to rezone the property from a residential zone district to a commercial mixed use district as she believes the current zoning is a mapping error because the existing structure is a commercial structure. The applicant is not currently proposing a change to the exterior of the structure or the zone lot.

The current zoning is U-SU-C1 or **U**rban Neighborhood Context - **S**ingle **U**nit - C1 which requires a minimum lot size of 5,500 square feet and allows detached accessory dwelling units. The proposed zoning is U-MX-2x or **U**rban Neighborhood Context - **M**ixed Use - with a maximum building height of **2**-stories and with the **x** limited to low intensity land uses. It would allow the building to be used for commercial and residential uses rather than just residential land uses.



Current Zoning

III. Existing Context

The subject property is located on the east side of North Federal Boulevard at the northeast corner of Federal Boulevard and 41st Avenue. In the general vicinity are St Catherine of Siena Catholic School, one block to the north, Skinner Middle School, 3 blocks to the west, and Rocky Mountain Lake five blocks to the northwest. Immediately adjacent to the site on the north is a one-story legal non-conforming medical clinic and a single family residence, on the south, across 41st Avenue, is Columbian Elementary School, on the east, across an alley is a parking lot, and on the west, across Federal Boulevard, is McDonough Park. The local block pattern consists primarily of rectilinear and square block patterns formed by a traditional grid street pattern with alleys, detached sidewalks and tree lawns.

	Existing Zoning	Existing Land Use	Blueprint Denver
Site	U-SU-C1	Vacant Low-rise Commercial Structure	Area of Stability Single Family Residential
North	U-SU-C1	Low-rise Legal Non-conforming Medical Clinic	Area of Stability Single Family Residential
South	U-SU-C1	Low-rise Elementary School	Area of Stability Single Family Residential
West	OS-A	Park	Area of Stability Park
East	U-SU-C1	Parking Lot & Low-rise Residential	Area of Stability Single Family Residential



Legal non-conforming clinic north of the subject property



Columbian Elementary School south of the subject property



Subject Property



Parking lot east of the subject property



McDonough Park west of the subject property

IV. Summary of Agency Referral Responses

This rezoning has been reviewed concurrently within the context of the Denver Zoning Code and other applicable City Codes as utilized by the referral agencies listed below.

Asset Management:	Approve – No Comments
Denver Fire Department:	Approve Rezoning Only
Denver Parks:	Approve - No Comments
Development Services- Project Coordination:	No Comments Received
Development Services-City Survey:	Approve - No Comments
Development Services-Transportation:	Approve Rezoning Only
Development Services-Wastewater:	Approve - No Comments

V. Legal Notice, Public Process & Public Comment

Planning Board

The property was legally posted with signs and written notification of the Planning Board meeting was sent to all affected Registered Neighborhood Associations 15 days prior to the meeting. At the March 21, 2012, Planning Board meeting the Board unanimously voted to recommend approval of the rezoning on condition that the applicant amend her application to request the U-MX-2x zone district rather than the zone district originally applied for, U-MX-2.

The applicant met with affected Registered Neighborhood Associations prior to submitting her application. The Sunnyside United Neighbors, Inc. has submitted an letter of support for the continued use of 4100 Federal as a business. The letter is attached.

LUTI Committee

Electronic notification of the LUTI Committee meeting was sent to all affected Registered Neighborhood Organizations.

VI. Criteria for Review & CPD Evaluation

The criteria for review, located in DZC Sections 12.4.10.13 and 12.4.10.14, are as follows:

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare
4. Justifying Circumstances
5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver: An Integrated Land Use and Transportation Plan*
- *Sunnyside Neighborhood Plan*

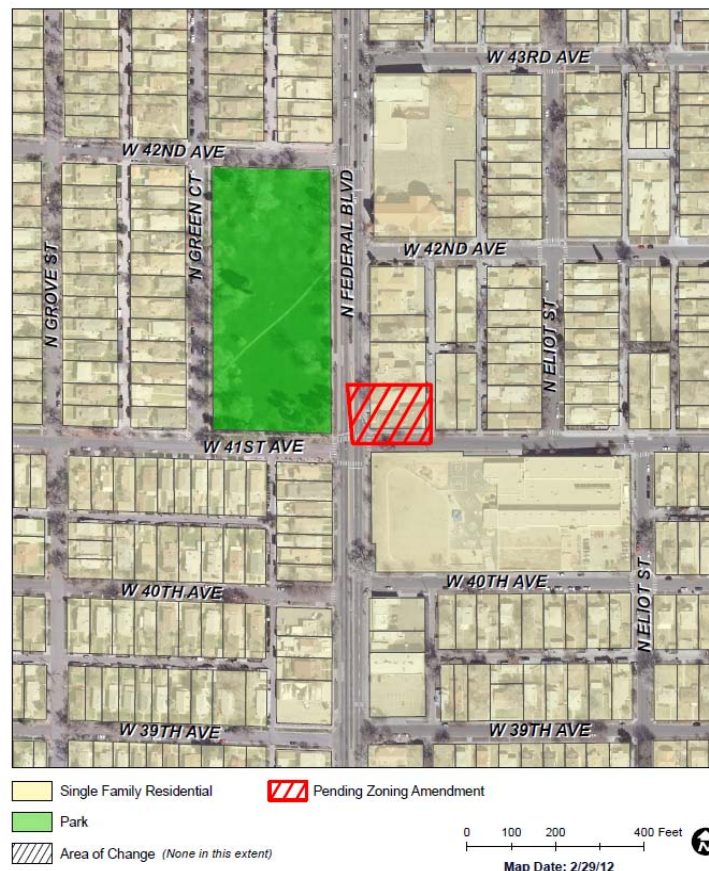
Denver Comprehensive Plan 2000

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

- Denver's Legacies Strategy 2A "Establish development standards to **encourage positive change and diversity while protecting Denver's traditional character.**" (p. 98)
- Denver's Legacies Strategy 3A "**Identify areas in which increased density and new uses are desirable and can be accommodated.**" (p. 99)
- Land Use chapter, Strategy 3-B is to "**Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.**" (p.60).

Blueprint Denver

Blueprint Denver, the City's Land Use and Transportation Plan, identifies the property as being within an *Area of Stability* with a concept land use recommendation of *Single Family Residential*. The Blueprint Denver future street type for Federal Boulevard is *Residential Arterial* and for 41st Avenue is *Undesignated Local Street*.

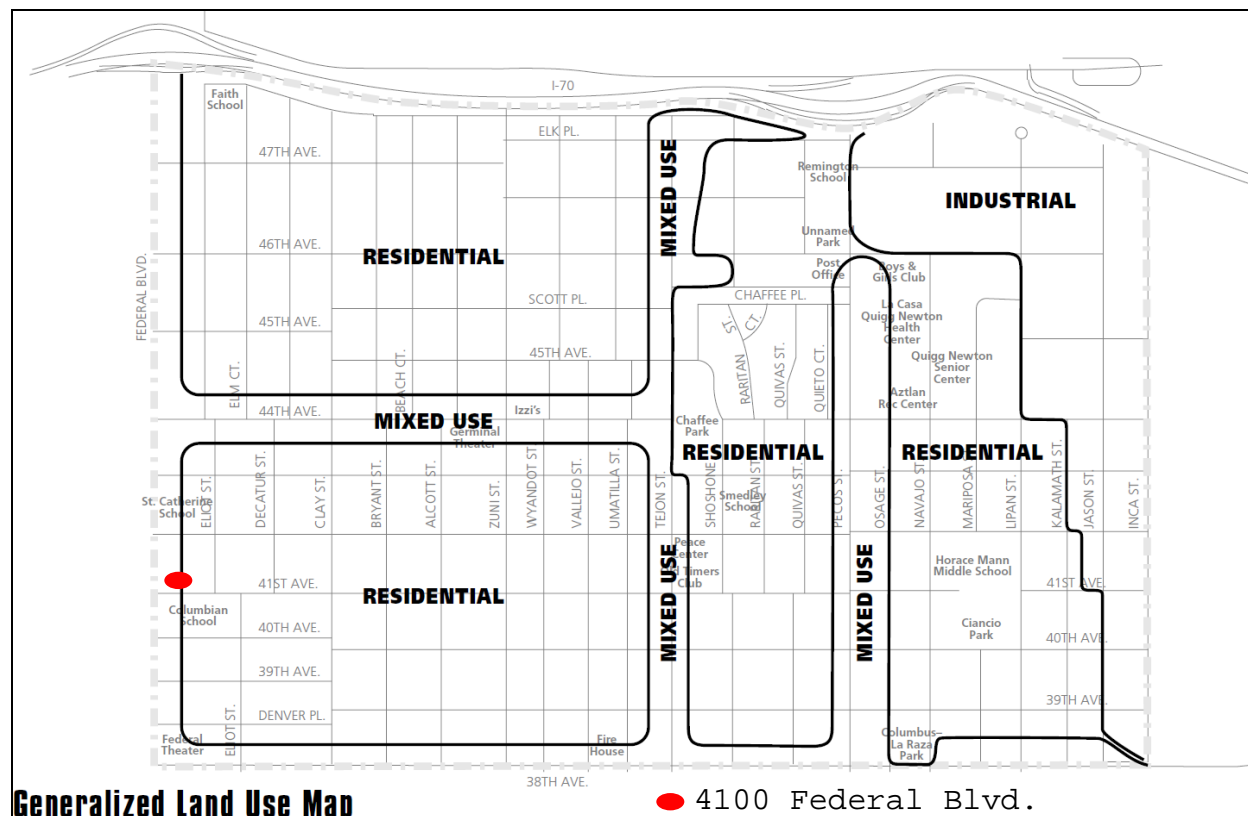


In an Area of Stability, limited change is expected; the goal is to identify and maintain the character of such areas while accommodating some new development and redevelopment (p. 120). Zoning regulations should reinforce desired development patterns in existing stable neighborhoods while also accommodating compatible reinvestment. Zoning's building form standards, design standards, and allowed uses should work together to promote development consistent with adopted plan direction.

The existing structure on the subject property was built in 1925 and has historically been used for commercial land uses. The low-rise scale of the structure fits with the low-rise scale of the surrounding residential area. The two-story height limit in the U-MX-2x zone district would help maintain the character of the area.

Sunnyside Neighborhood Plan

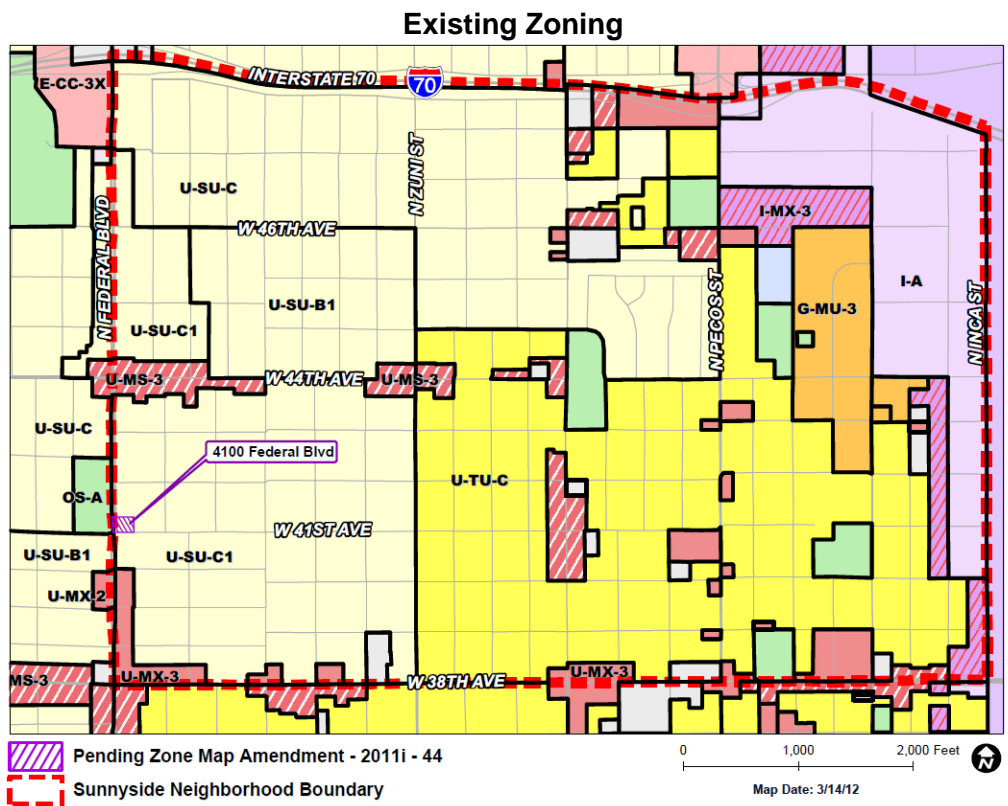
The 1992 Sunnyside Neighborhood Plan was re-adopted in 2000 as a supplement to Denver Comprehensive Plan 2000. The Plan land use map is below.



The proposed U-MX-2x rezoning is consistent with several Sunnyside Neighborhood Plan goals and strategies in the following ways:

- Land Use and Zoning Goal is to “**Maintain and stabilize the residential character of Sunnyside** while encouraging small scale shops and offices, particularly in the commercial zones along 44th Avenue and Tejon Street, that will enhance and serve the neighborhood.” (p. 18)
- Land Use Policy LUZ-4 is “**Discourage further development of bars and taverns in areas that are primarily residential to prevent unruly behavior, noise and other adverse impacts.**”(p. 20)
- Land Use Policy LUZ-8 is “**Do not allow commercial and industrial expansion into residential zones unless:**
 - Physical deterioration exists
 - The housing is non-conforming
 - Speculation and redevelopment have made it impossible to retain the existing character

- o Existing transportation corridors have diminished the demand for residential uses.” (p.20)
- Economic Development Strategy ED-4 is to “**Work towards a goal of concentrated commercial nodes**, rather than scattered site development. The commercial areas on 44th Avenue, Federal Boulevard and 38th Avenue should be priorities for City assistance.”(p.52)



On Federal Boulevard, in the Sunnyside Neighborhood, as the Sunnyside Plan recommends, existing commercial areas are concentrated in two distinct nodes, one between 38th and 40th Avenues, and one at the intersection of 44th Avenue and Federal Boulevard. On the subject block, the existing primary land uses are exclusively residential with the exception of the subject low-rise commercial structure and a low-rise legal non-conforming clinic.

Under the current U-SU-C1 zone district, commercial land uses are allowed in existing business structures under a land use entitled “*Nonresidential Uses in Existing Building Structures in Residential Zones.*” This specific land use is subject to limitations (Section 11.4.3) that limit the allowed nonresidential uses to only those allowed in the MS-2x zone district in the same neighborhood context. For the subject property, this means nonresidential uses allowed in the U-MS-2x zone district, or Urban Neighborhood Context - Mainstreet - with a maximum building height of 2-stories and with the x limited to low intensity land uses. Therefore, under the current zoning, the applicant already enjoys an existing zoning entitlement to operate limited commercial land uses allowed in the U-MS-2x zone district with a Public Information Notice process.

In proposing a change to the U-MX-2x zone district, the applicant proposes to move the structure from a residential zone district to a commercial mixed use zone district. This change would allow the property owner limited commercial land uses and the right to alter or replace the structure.

2. Uniformity of District Regulations and Restrictions

Rezoning the site to U-MX-2x will have no effect on the uniformity of district regulations.

3. Public Health, Safety and General Welfare

Because of its consistency with the Sunnyside Neighborhood Plan objectives, the proposed map amendment does further the public health, safety and general welfare of the City.

4. Justifying Circumstances

The applicant states that the requested rezoning is justified because the existing zoning of U-SU-C1 was the result of an error (DZC, Section 12.4.10.14.A.1). CPD staff disagrees. City council, in approving the U-SU-C1 zone district as part of the 2010 legislative zoning code/map update, applied a zone district that arguably met the mapping criteria used for that effort: the U-SU-C1 zone district respected the predominantly residential condition existing on the subject block, implemented plan recommendations in both Blueprint Denver and the Sunnyside Neighborhood Plan that the predominant residential character be maintained, and acknowledged the then-existing zoning entitlement of R-2 by allowing accessory dwelling units and continuing the allowance for limited commercial uses of existing commercial structures. CPD staff finds that the remapping to U-SU-C1 was not based on an error.

The Denver Zoning Code also states that a rezoning may be justified if 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 (DZC, Section 12.4.10.14.A.4). The subject site has continued in its use and structure to be consistently commercial, despite its residential zoning designation and the passage of over eight decades of time. Therefore, CPD supports a rezoning to capture the existing condition, without significant expansion or change in the current zoning entitlement, based on a finding that conditions have changed in the area to now support the continued nonresidential use of the property and encourage reinvestment in an existing commercial structure.

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

- Neighborhood Context: Overall, the proposed rezoning is consistent with the Urban Neighborhood Context that exists in the subject area, which is primarily single-unit, two-unit and small-scale multi-unit residential uses, together with small-scale, embedded mixed use commercial areas. The latter commercial areas are pedestrian-scaled and typically embedded within the larger residential areas. Single and two-unit residential uses are typically located along local and residential collector and arterial streets.
- Zone District Purpose and Intent: The U-MX-2x is intended for small sites of one or two parcels embedded existing or new neighborhoods. Overall, the proposed U-MX-2x zone district is consistent with the zone district purpose and intent.

VII. Staff Recommendation

Based on the criteria for review as defined above, CPD recommends **approval** for rezoning the property located at 4100 North Federal Boulevard (Application #2011I-00044) from U-SU-C1 to U-MX-2x.

Attachments:

- 1. Application**
- 2. Map Series – (Aerial, Zoning, Blueprint Map)**
- 3. Sunnyside United Neighbors, Inc. Letter**

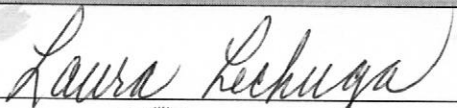
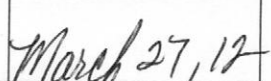


DENVER
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**Community Planning and Development
Planning Services**
Plan Implementation

201 W Colfax Ave, Dept 205
Denver, CO 80202
p: 720-865-2915
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APPLICATION FOR ZONE MAP AMENDMENT

Application #		Date Submitted	12/09/11	Fee Required	\$1000.00	Fee Paid	\$1000.00
APPLICANT INFORMATION				CONTACT INFORMATION (Same as Applicant? <input type="checkbox"/>)			
Applicant Name	Laura Lechuga			Contact Name	Vanessa Guzman		
Address	2898 W 56 th Ave			Address	2327 W 37 th Ave		
City, State, Zip	Denver, CO 80221			City, State, Zip	Denver, CO 80211		
Telephone / Fax	720-270-1291			Telephone / Fax	303-906-6135		
Email	rosalesl@hotmail.com			Email	Vguzman11@msn.com		
Subject Property Location [Please Include Assessor's Parcel Number(s)]							
Parcel # 0220418006000							
Legal Description of Subject Property							
L 12 TO 15 INC BLK 18 BOULEVARD HEIGHTS 2 ND FLG							
Area of Subject Property (Acres/Sq Ft)		Present Zone District		Proposed Zone District (Waivers and Conditions Require Separate form)			
12500 sq ft		U-SU-C1		U-MX-2x			
Describe the nature and effect of the proposed Zone Map Amendment							
See Attached.							
Select Legal Basis for the Zone Map Amendment and explain in detail				Error in the map as approved by City Council			
				Changed or Changing Conditions that make a Zone Map Amendment Necessary <input checked="" type="checkbox"/>			
See Attached.							
State the land use and the development proposed for the subject property. Include the time schedule (if any) for development							
There is no new development proposed. Owner would like to continue to lease the property as retail space.							
Required Exhibits				Additional Exhibits			
Applicant & Owner Information Sheet				<input checked="" type="checkbox"/>			
Maps – Required for Final Submissions				<input type="checkbox"/>			
Case Manager	Theresa Lucero						
Signature						Date	
							



APPLICANT & OWNER INFORMATION SHEET

[1] Section 59-648(c) of the Denver Revised Municipal Code requires that an applicant for rezoning provide the applicant's name, address, and respective ownership interest, if any, on the application. In addition, unless subject to paragraph [2] below, the applicant must provide, in the space provided on this form, a list of all the owners of the property and the holders of deeds of trust, identifying which owners and holders of deeds of trust are represented by the applicant.

[2] If the application is for designation of an area as B-2, B-3, R-X or PUD zone district, the applicant must submit the concurrence of the owners and holders of deeds of trust of the entire land area to be included in the proposed district (and any structures thereon). In such cases, this form must be completed for each individual owner, together with sufficient evidence of ownership for each owner and holder of a deed of trust. Documentation verifying ownership interest may include (but is not limited to): Copies of deeds, powers of attorney, and corporate/partnership registrations filed with the Secretary of State.

Application Number	Applicant's Name
	Laura Lechuga

Property Address(es)

4100 Federal Blvd Denver, CO 80211

Applicant's Address

2898 W 56th Ave Denver CO 80221

NOTE: If application is for rezoning to B-2, B-3, R-X or PUD, and the applicant is not the property owner, this form must be accompanied by a Power of Attorney statement from the property owner.

Indicate as accurately as possible the form of interest in the property, and the amount held by the individual or entity listed as "applicant" above.

Fee Title Owner (Has Deed of Ownership)	All	<input checked="" type="checkbox"/>
	A Portion	<input type="checkbox"/>
Contract Owner	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>
Holder of a Security Interest	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>

List the names and addresses of all owners and holders of Deeds of Trust for the property, if any, and indicate which owners or holders of deeds of trust are represented by the applicant in the space below (please add additional pages, if needed).

Laura Lechuga

Signature of Applicant	Date Signed
<i>Laura Lechuga</i>	<i>March 27, 12</i>

Describe the nature and effect of the proposed Zone Map Amendment

The amendment from the current U-SU-C1 to the proposed U-MX-2x takes the property from being zoned for a single family residential permitted use to mixed use zoning. The current zoning is in error because the property has been used as a commercial retail space since it was constructed in 1925. In the zoning changes that took effect the property was overlooked as its actual use. The latter zoning would better suit the documented retail (commercial) use the property has had since 1925.

Records obtained from the City and County of Denver prove the property known as 4100 Federal Blvd (frontage on Federal Blvd) has been used, but not limited to the following uses:

Rosa's Bridal Boutique from 1995 until 2011

Carpet Corral Store; in 1983

More Value Stamp Store; in 1975

Colorado Lace Co. in 1928

The change in zoning for the lot would allow Laura Lechuga to continue to lease her property out to retail customers without having to acquire a special permit on an ongoing basis from the city or the neighborhood constituents every time a new retail tenant comes in.

The change in zoning would not adversely affect the neighborhood because the property has been recognized as a retail business for many years.

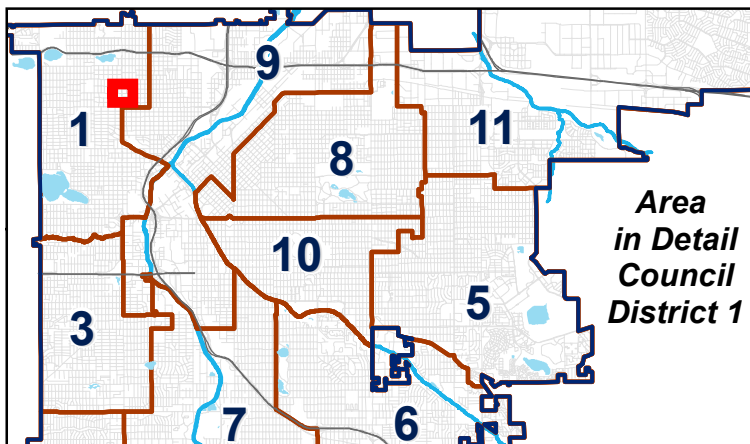
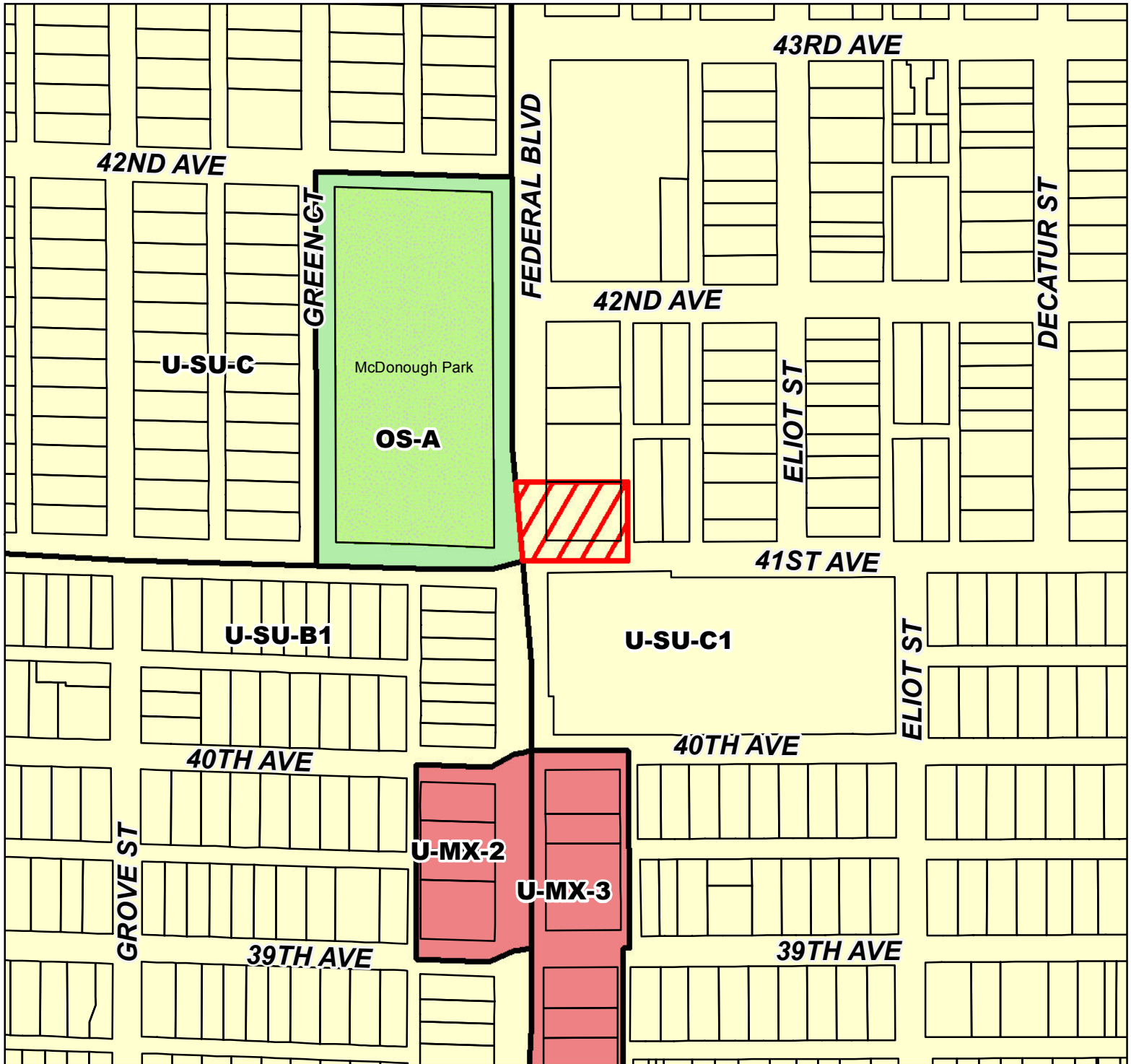
Select Legal Basis for the Zone Map Amendment and explain in detail

With the current restrictions surrounding zoning and use for both properties they can only be used for single family residential use, and in order to use it in this manner Laura Lechuga would need to do the following:

1. Remove the 15 ft signage on Federal.
2. Add bathing facilities to the bathroom
3. Complete a kitchen of which there is only a sink right now

These changes would prove a hardship for Laura at this time and would deem the zoning inappropriate for current and actual use of the building.

Pending Zone Map Amendment #2011I-00044



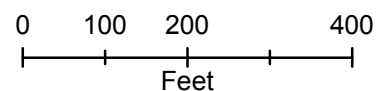
Area
in Detail
Council
District 1

Application #2011I-00044

Location: 4100 Federal Blvd. and 2901 W. 41st Ave.



Proposed Rezoning
From: U-SU-C1
To: U-MX-2



Map Date: 2/29/12

Pending Zone Map Amendment - Aerial & Zoning Overlay

 Application #2011I-00044



Pending Zone Map Amendment - Blueprint Denver Overlay

 Application #2011I-00044



 Single Family Residential

 Pending Zoning Amendment

 Park

 Area of Change *(None in this extent)*

0 100 200 400 Feet

Map Date: 2/29/12





Sunnyside United Neighbors, Inc. | P.O. Box 11381 | Denver, CO 80211

March 16, 2012

Denver Planning Board
201 West Colfax Ave, Room 4.F.6
Denver, Colorado 80202

Re: Petition to rezone 4100 Federal Boulevard and 2901 West 41st Avenue,
App. #2011I-00044

The Sunnyside United Neighbors Inc. (SUNI) Planning and Community Development (PCD) Committee, at its regular meeting on November 7, 2011, heard from Vanessa Guzman, representing the property owner of both 4100 Federal Boulevard and 2901 West 41st Avenue, on proposals to rezone 4100 Federal Blvd. and 2901 W. 41st Ave. The existing building at 4100 Federal, currently vacant, is a non-residential structure most recently operated as a bridal shop. It is currently zoned as U-SU- C1. There are no structures on 2901 W. 41st Ave; it is currently used as a parking lot. App. #2011I-00044 would change the zoning for both properties to U-MX-2.

The committee voted to support rezoning for the 4100 Federal property to allow its continued use as a business. However, as an alley separates the two properties and does not allow the properties to be joined into one zone lot, the committee voted to not support rezoning of the 2901 W. 41st Ave. property.

Very sincerely yours,

Stephen Wilson
SUNI President

Janice Stice
PCD Committee Chair

Sunnyside United Neighbors, Inc. (SUNI) is the registered neighborhood organization for Sunnyside. The boundaries of the neighborhood are Federal Blvd., W. 38th Ave., Inca St., and I-70, comprising approximately 4000 households. All residents of the neighborhood are defined by our bylaws as members; we also have approximately 300 dues-paying members. SUNI's regular meetings are open to the public. SUNI's activities are publicized through its website: www.sunnysidedenver.org.

The SUNI Planning and Community Development Committee is a standing committee authorized by the SUNI bylaws to act for the Association on matters of zoning, development, and neighborhood planning. The SUNI PCD Committee holds regular monthly public meetings, announced by our website. The tax id number is 84-1211806.



www.SunnysideDenver.org

Sunnyside United Neighbors Inc. (SUNI) is a registered non-profit 501(c)(3)