

**TO:** Denver City Council  
**FROM:** Theresa Lucero, Senior City Planner  
**DATE:** September 22, 2016  
**RE:** **Official Zoning Map Amendment Application #2016I-00036**  
**4402 Umatilla Street**  
**Rezoning from PUD #358 to U-MS-2**

### *Staff Report and Recommendation*

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for application #2016I-00036 for a rezoning from PUD #358 to U-MS-2.

### *Request for Rezoning*

|                                |  |
|--------------------------------|--|
| Application:                   | <b>#2016I-00036</b>  |
| Address:                       | 4402 Umatilla Street   |
| Neighborhood/Council District: | Sunnyside Neighborhood / City Council District 1   |
| RNOs:                          | Sunnyside United Neighbors; United Northside Neighborhood; Denver Urban Resident Association; Denver Neighborhood Association, Inc. and Inter-Neighborhood Cooperation |
| Area of Property:              | 0.28 Acres / 12,187 SF   |
| Current Zoning:                | PUD #358   |
| Proposed Zoning:               | <b>U-MS-2</b>  |
| Applicant/Owner:               | 4402 Corporation   |
| Contact Person:                | Gearhart Moore Holdings, Inc.  |

### *Summary of Rezoning Request*

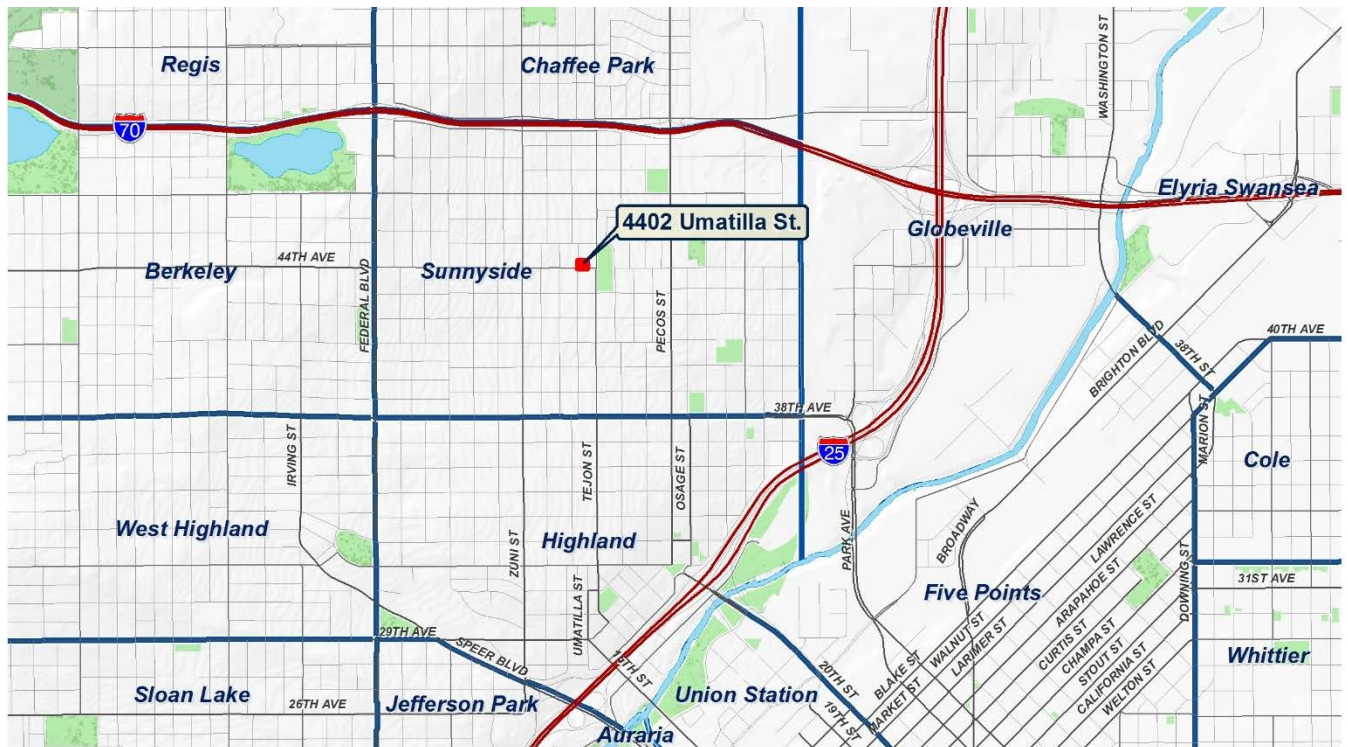
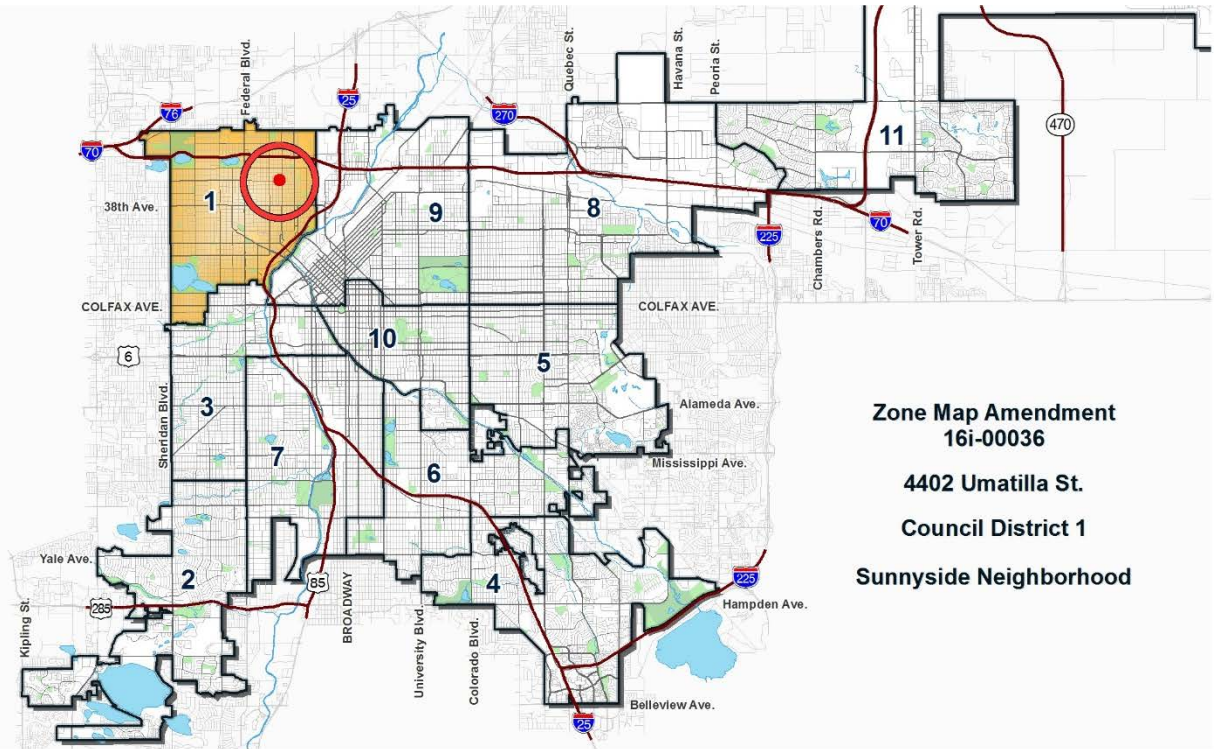
On the property is a one-story office/warehouse/masonry storage yard located on the northeast corner of Umatilla Street and 44<sup>th</sup> Avenue. The property owner is requesting to rezone the property to repurpose the existing structure and add a new building on the site. The property owner also wishes to remove the PUD floor area maximum and height limit, and to expand the allowed land uses to those allowed in the proposed U-MS-2 zone district. The anticipated new uses of the property will be ground level retail and restaurant and upper story office.

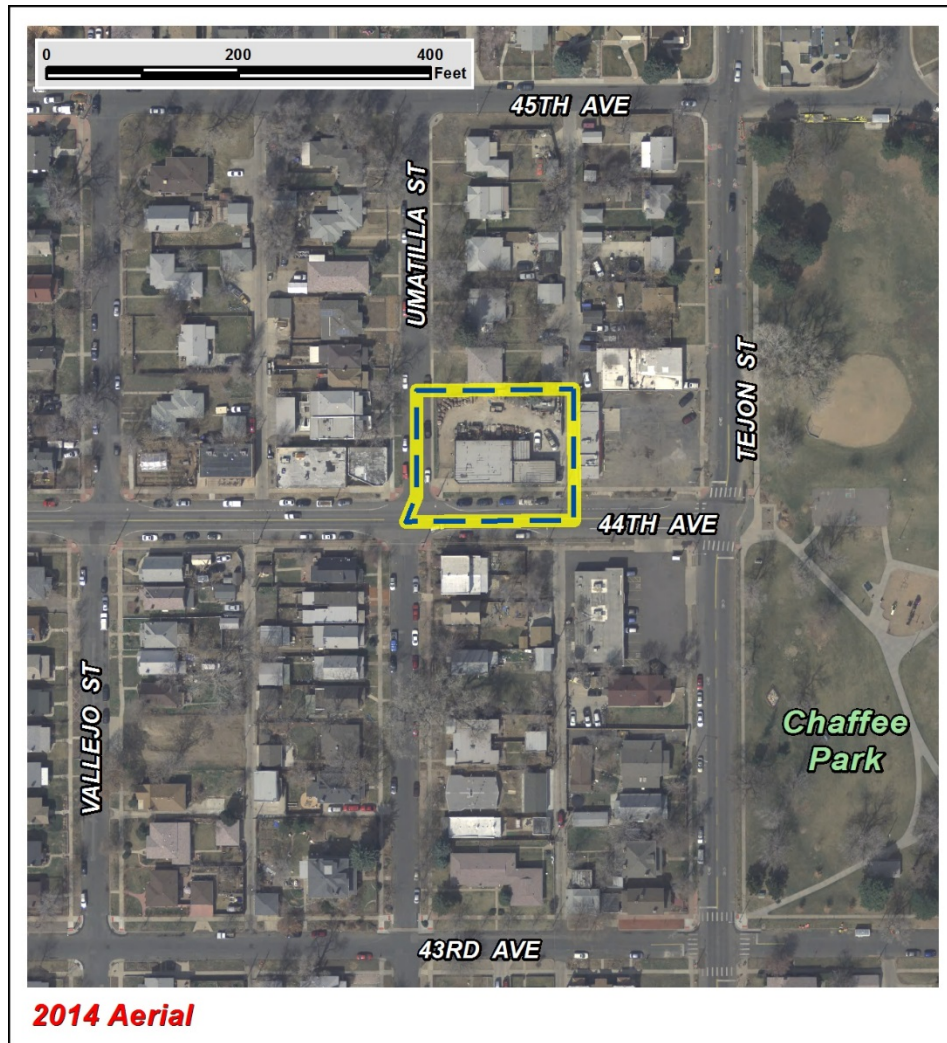
The existing zoning is a Former Chapter 59 PUD which limits the structures on the property to a maximum total gross floor area 6,614 square feet, and a building height of one story, or 25 feet. The PUD allows land uses based upon the B-2 zone district in Former Chapter 59, which allowed neighborhood serving businesses, with the addition of some more intense commercial and industrial land uses. The specific additional B-4 land uses added were Special Trades Contractor, Assembly and Fabrication, Wholesale and Retail Sales, and Repair, Rental and Servicing. The PUD also excluded Adult Business uses and Single and Multiple Unit Dwelling land uses.

The proposed **U-MS-2** (**U**rban context, **M**ain **S**treet, **2**-story) zone district has a similar list of residential, civic and commercial allowed land uses to the Former Chapter 59 B-2 zone district. The U-MS-2 zone district is in the Urban Neighborhood Context and has a maximum building height of 2 stories and 35 feet. Further details of the zone district can be found in Article 5 of the Denver Zoning Code.

Planning Services  
Community Planning and Development  
201 W. Colfax Ave., Dept. 205 | Denver, CO 80202  
[www.denvergov.org/CPD](http://www.denvergov.org/CPD)  
p. 720.865.2983

### General Location





### ***Existing Context***

The subject property is located in northwest Denver on the northeast corner of 44<sup>th</sup> Avenue and Umatilla Street one block east of Chaffee Park. In the general vicinity are:

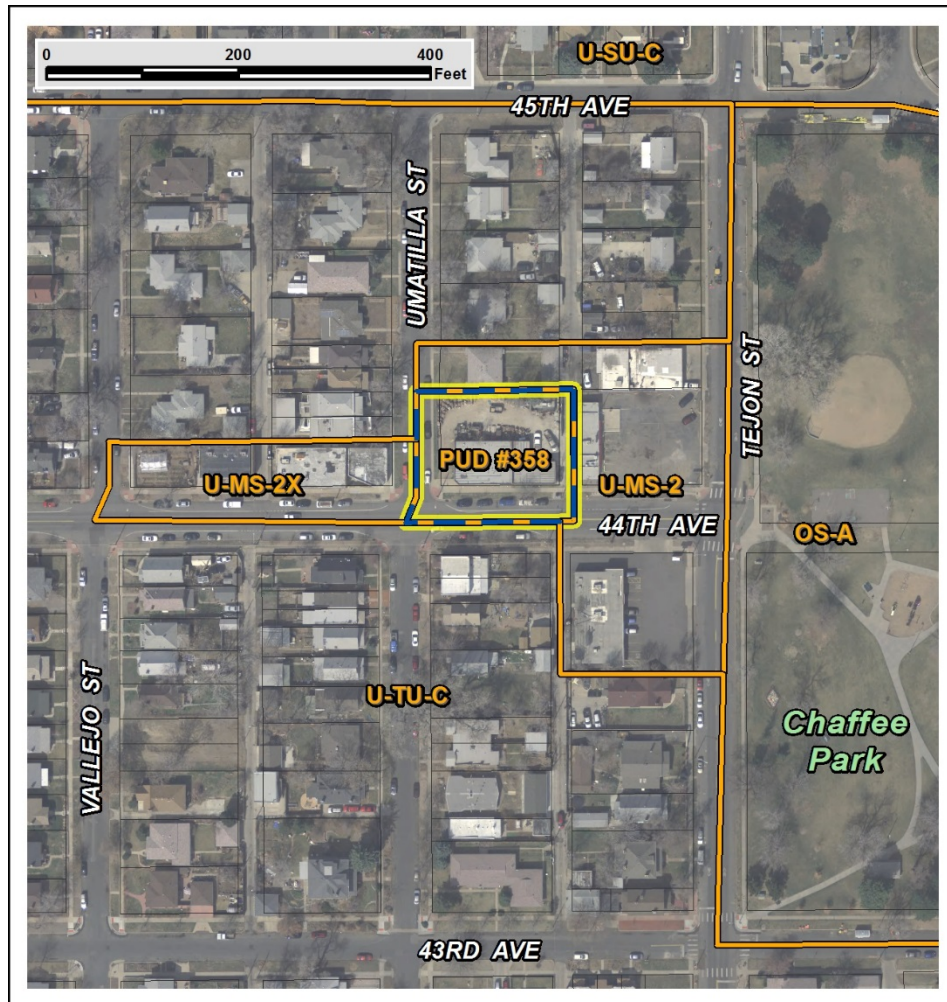
- Interstate 70, approximately 5 blocks north,
- North Federal Boulevard, 11 blocks to the west,
- Aztlan Park and Recreation Center approximately 6 blocks to the east,
- Quigg Newton Homes approximately 6 blocks to the east,
- Denver Online High School, 2 blocks to the southeast,
- Trevista Elementary School, 10 blocks to the southeast,
- 41<sup>st</sup> & Fox Light Rail Station, approximately 13 blocks to the southeast.

The subject property is surrounded by a mixture of single family and duplex one and two-story residential land uses to the north, south and west with commercial and light industrial uses to the east.

The following table summarizes the existing context proximate to the subject site:

|              | <b>Existing Zoning</b> | <b>Existing Land Use</b>             | <b>Existing Building Form, Scale</b> | <b>Existing Block, Lot, Street Pattern</b>   |
|--------------|------------------------|--------------------------------------|--------------------------------------|--|
| <b>Site</b>  | PUD #358               | Low-rise Commercial/Industrial       | One-story Structure                  | Overall grid street patterns with alleys, mixed attached and detached sidewalks and some tree lawns. |
| <b>North</b> | U-MS-2                 | Low-rise Residential (Duplex)        | One-story Structure                  |  |
| <b>South</b> | U-TU-C                 | Low-rise Residential (Duplex)        | Two-story Structure                  |  |
| <b>West</b>  | U-MS-2X                | Low-rise Residential (Single-family) | Five-story Structure                 |  |
| <b>East</b>  | U-MS-2                 | Low-rise Commercial                  | One-story Structure                  |  |

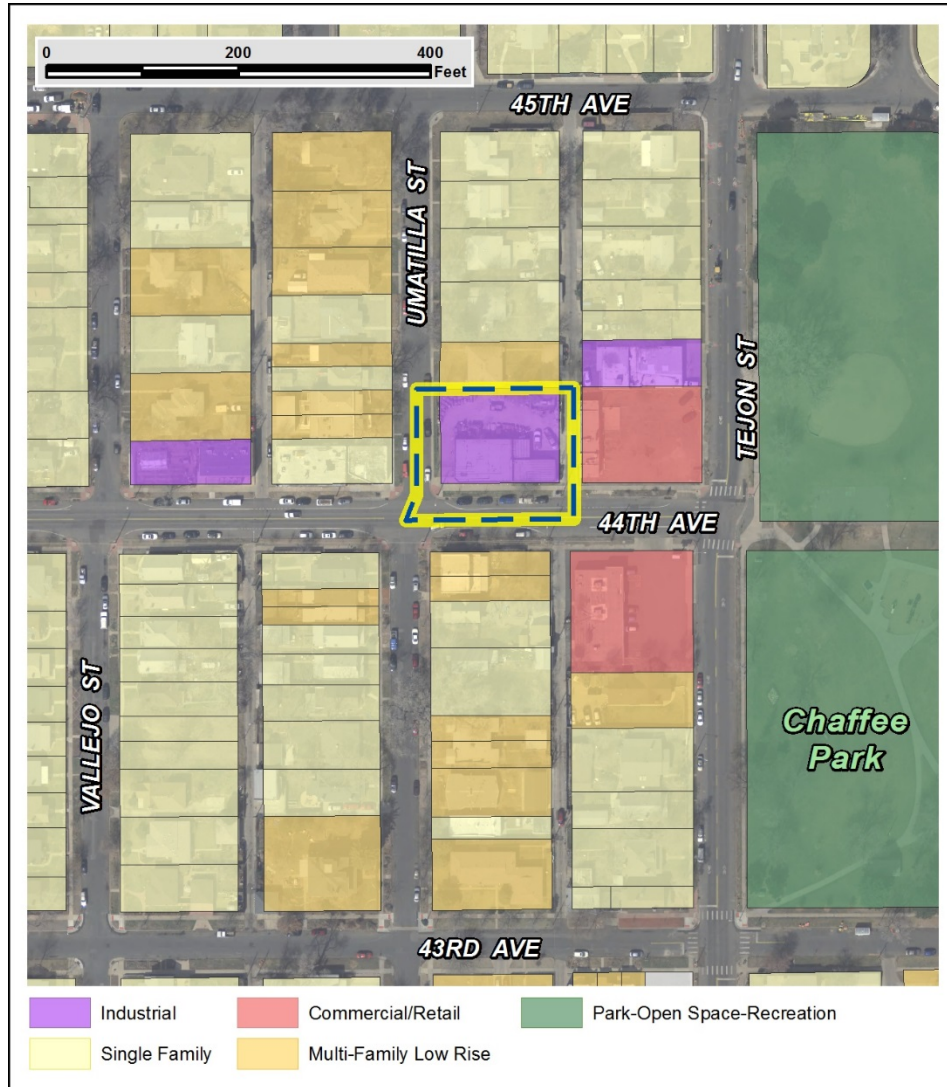
### Existing Zoning



### View Plane

The subject property is within the 51<sup>st</sup> Avenue and Zuni Street view plane. The origin point of the view plane is the park located at 51<sup>st</sup> and Zuni Street and the purpose of the view plane is to protect views of downtown from the park. The allowed building height for structures on the subject property is between 59 and 61 feet. Because the height limit in the proposed zone district is 35 feet, the view plane will have no effect on the redevelopment of the subject property.

**Existing Land Use**



*Existing Building Form and Scale*



### ***Summary of City Agency Referral Comments***

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.

**Public Works – City Surveyor:** Approved.

**Public Works – Wastewater:** Approved, with the following comments: There is no objection to the rezone, however applicant should be under notice that the Public Works will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be necessary. These studies may result in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient.

**Environmental Health -** Approved, with the following comments. Notes. DEH is not aware of environmental concerns that would impact the rezoning and does not object to the request.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

### ***Public Review Process***

- CPD staff provided informational notice of receipt of the application to affected members of City Council and Registered Neighborhood Organizations on May 13, 2016.
- The property was legally posted for a period of 15 days announcing the July 20, 2016, Planning Board public hearing, and written notification of the hearing has been sent to all affected Registered Neighborhood Associations and City Council members. At the hearing Planning Board voted unanimously to recommend approval.



- Following Planning Board review, the rezoning application is referred to the Land Use, Transportation and Infrastructure Committee (LUTI) of the City Council. CPD staff sends electronic notification of the meeting to affected Registered Neighborhood Associations and to At-large and local City Council members. The LUTI Committee was scheduled for August 16, 2016.
- Following the LUTI Committee review the rezoning application is typically referred to the full City Council for final action at a public hearing. The City Council public hearing is scheduled for September 26, 2016.
- To date, staff has received no public comment on the proposed rezoning.

### **Criteria for Review/Staff Evaluation**

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

#### DZC Section 12.4.10.7

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and Welfare

#### DZC Section 12.4.10.8

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

### **1. Consistency with Adopted Plans**

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

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*
- *Sunnyside Neighborhood Plan (1992)*

### **Denver Comprehensive Plan 2000**

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

- Environmental Sustainability, Strategy 2-F, “**Conserve land by: Promoting infill development within Denver at sites where services and infrastructure are already in place...Designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods**” (p. 39).
- Land Use Strategy 3-B, “**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).
- Economic Activity, Objective 5, “**Support the creation and growth of neighborhood businesses that enhance the vitality and quality of life in their communities**” (p. 136).

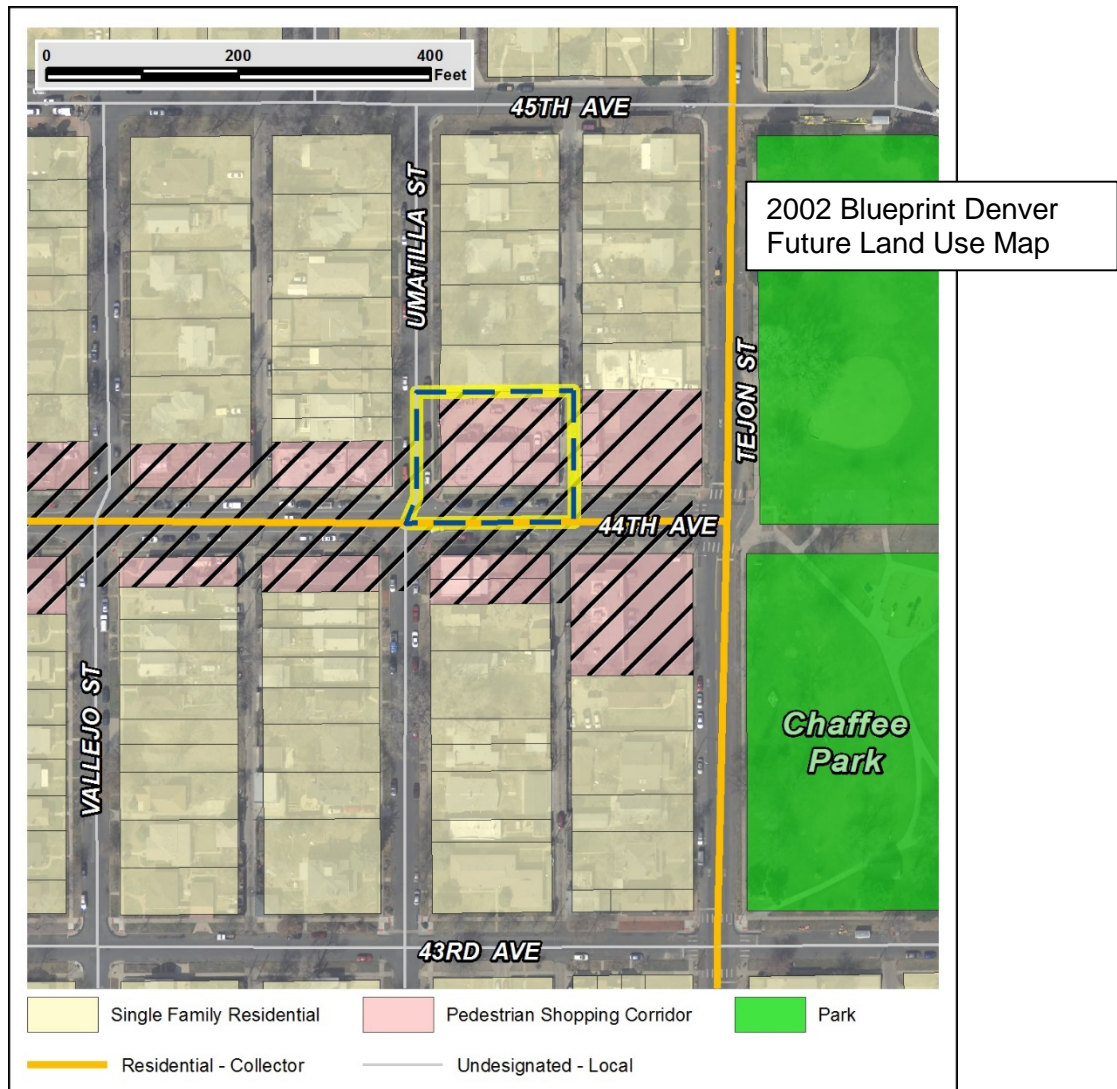
The proposed map amendment will enable the redevelopment at an infill location where services and infrastructure are already in place and support the creation of a new mixed use development with new employment opportunities. The U-MS-2 zone district allows the property owner to build more square feet than the existing PUD zone district, but keeps the scale of the new development consistent with the existing scale of the surrounding neighborhood. The rezoning is consistent with these Comprehensive Plan recommendations.

### **Blueprint Denver**

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a land use concept of *Pedestrian Shopping Corridor* and is located within an *Area of Change*.

### **Future Land Use**

*Pedestrian Shopping Corridor* areas “exhibit the same land uses as a town or neighborhood center, but it orients those uses in a linear pattern... These corridors are scaled to be compatible with surrounding residential neighborhoods... have a continuous street frontage of buildings, wide sidewalks, on-street parking, and shared parking among businesses, and provide pedestrian amenities and good transit services” (p. 45). The proposed U-MS-2 zone district allows for a broad range of land uses consistent with the Pedestrian Shopping Corridor land use concept. The 2-story building scale is consistent with the existing building scale in the area.



### **Area of Change**

According to Blueprint Denver, “the purpose of Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips” (p. 127). Blueprint Denver strategies for Areas of Change include “compatibility between existing and new development, reuse of older buildings, mixed land uses, redevelop vacant and underused properties, and business retention, expansion and creation” (p. 23). The U-MS-2 district allows an existing business to redevelop with a broader range and mix of land uses and will allow retention and reuse of the existing building with a building scale that is compatible with the surrounding area.

### **Street Classification**

The Blueprint Denver street type for Umatilla Street is *Undesignated Local Street*. Local streets are tailored to providing local access, mobility is typically incidental and involves shorter trips at lower speeds. The street type for 44<sup>th</sup> Avenue is *Residential Collector*. These types of streets emphasize walking, bicycling and land access over mobility. The proposed low-intensity mixed use zoning is compatible with these street types.

### **Sunnyside Neighborhood Plan (1992)**

The land use and zoning goal of the Sunnyside Neighborhood Plan is to “**Maintain and stabilize the residential character of Sunnyside while encouraging small scale shops and offices, particularly in the commercial zones along 44<sup>th</sup> Avenue and Tejon Street, that will enhance and serve the neighborhood**” (p. 18). In addition, the Design Guidelines in the plan recommend a guideline for 44<sup>th</sup> Avenue stating: “Discourage any new auto related uses or liquor licenses - **Encourage the development of multi-family housing, neighborhood serving businesses, or small offices**” (p. 36). And finally, the Plan has an Economic Development recommendation to “**Work towards a goal of concentrated commercial nodes, rather than scattered site development. The commercial areas of 44<sup>th</sup> Avenue, Tejon Street, Federal Boulevard, and 38<sup>th</sup> Avenue should be priorities for city assistance**” (p. 52). The proposed U-MS-2 zone district will enable the redevelopment of the existing structure with a small scale mixed use project located in an existing neighborhood commercial node.

### **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to the U-MS-2 zone district will result in the uniform application of zone district building form, use and design regulations.

### **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety and general welfare of the City primarily through implementation of the City’s adopted land use plans.

### **4. Justifying Circumstances**

The application identifies the “high profile location” on 44<sup>th</sup> Avenue and changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “*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 current PUD zoning was left in place in 2010 during the citywide rezoning because it is customized zoning. The property owner cites the obsolescence of the current PUD in narrowing

the list of allowed land uses and the amount of square feet allowed in a structure. The change of use on the subject property from light industrial to commercial signals change and reinvestment in the area and is an appropriate justifying circumstance for the proposed rezoning.

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

The Urban Neighborhood Context is characterized by single-unit and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. Single-unit residential structures are typically Urban House forms. Multi-unit building forms are typically Row House forms embedded with other residential building forms. Commercial buildings are typically Shop front and General forms that may contain a mixture of uses within the same building. Single- and two-unit residential uses are primarily located along local and residential arterial streets. Multi-unit residential uses are located along local streets, residential and mixed use arterials, and main streets. Commercial uses are primarily located along mixed-use arterial or main streets but may be located at or between intersections of local streets. Street and block patterns consist of a regular pattern of block shapes surrounded by a grid street pattern, with the presence of alleys. The typical block pattern includes detached sidewalks (though attached sidewalks may also be found) and street and surface parking.

The specific intent of the U-MS-2 zone district states that the purpose of main street zone districts is to promote safe, active pedestrian-scaled commercial streets. The zoning 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 districts are intended to promote an urban, mixed-use, built-to environment regardless of neighborhood context. As the proposed rezoning is for a mixed use zoning located on a local street where other commercial uses are long established, the proposal is consistent with the Urban Neighborhood Context and the intent of the main street zone districts.

#### ***Staff Recommendation***

Based on the criteria for review as defined above, Staff recommends **approval** for rezoning the property located at 4402 Umatilla Street (Application #2016I-00036) from PUD #358 to U-MS-2.

#### ***Attachments:***

- 1. Application**
- 2. Legal Description**
- 3. Existing PUD #358**



### Zone Map Amendment (Rezoning) - Application

| PROPERTY OWNER INFORMATION*   |   | PROPERTY OWNER(S) REPRESENTATIVE**   |                             |
|---|---|--|-----------------------------|
| <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION  |   | <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION                                       |                             |
| Property Owner Name   | 4402 Corporation                        | Representative Name  | Gearhart Moore Holdings LLC |
| Address   | 4402 Umatilla                           | Address  | 2828 N Spear Blvd #220      |
| City, State, Zip  | Denver, CO 80211                        | City, State, Zip   | Denver, CO                  |
| Telephone   |   | Telephone  | 303-910-7015                |
| Email   |   | Email  | Gearhartmoore@gmail.com     |
| *If More Than One Property Owner:<br>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.           |   |  |                             |
| SUBJECT PROPERTY INFORMATION  |   |  |                             |
| Location (address and/or boundary description):   | 4402 Umatilla St.                       |  |                             |
| Assessor's Parcel Numbers:  | 0221237007000                           |  |                             |
| Area in Acres or Square Feet:   | 12,187 sq. ft. (0.28 acres)             |  |                             |
| Current Zone District(s):   | PUD 358                                 |  |                             |
| PROPOSAL  |   |  |                             |
| Proposed Zone District:   | U-MB-2                                  |  |                             |
| Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No  |                             |

Last updated: February 4, 2015

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201 W. Colfax Ave., Dept. 205

Denver, CO 80202

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# REZONING GUIDE

Rezoning Application Page 2 of 3

## REVIEW CRITERIA

General Review Criteria: The proposal must comply with all of the general review criteria  
DZC Sec. 12.4.10.7

- 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.  
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.
- 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 Rezonings: The proposal must comply with both of the additional review criteria  
DZC Sec. 12.4.10.8

- 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 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.

## REQUIRED ATTACHMENTS

- Please ensure the following required attachments are submitted with this application:
- Legal Description (required to be attached in Microsoft Word document format)
  - Proof of Ownership Document(s)
  - Review Criteria

## ADDITIONAL ATTACHMENTS

- Please identify any additional attachments provided with this application:
- Written Authorization to Represent Property Owner(s)
- Please list any additional attachments:
- Review Criteria Explanation, Warranty Deed, description, presentation*



# REZONING GUIDE

## 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)<br>(please type or print legibly) | Property Address<br>City, State, Zip<br>Phone<br>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:<br>(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><br>John Alan Smith and<br>Josie Q. Smith  | 123 Sesame Street<br>Denver, CO 80202<br>(303) 555-5555<br>sample@sample.gov | 100%   | <i>John Alan Smith</i><br><i>Josie Q. Smith</i>   | 01/01/12 | (A)   | NO  |
| 4402 Corporation   | 4402 Umatilla<br>Denver, CO<br>80211   | 100%   | <i>Ken Kahney</i><br><i>Christina</i>   | 5/11/16  | (B)   | Yes   |
|  |  |  | Authorized Representatives  |          |   |   |
|  |  |  |   |          |   |   |
|  |  |  |   |          |   |   |
|  |  |  |   |          |   |   |
|  |  |  |   |          |   |   |

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April 28, 2016

City of Denver  
Community Planning & Development  
201 W. Colfax, Dept. 205  
Denver, CO 80202

To Whom It May Concern:

As the Principal of 4402 Corporation and owner of 4402 Umatilla St, Denver CO 80211, I authorize Ben Gearhart and Charles Moore of Gearhart Moore Holdings, LLC to submit a Rezoning Application as the Property Owners Representative.

Best,

A handwritten signature in black ink, appearing to read "Paul Clark", written in a cursive style.

Paul Clark



**4402 Umatilla Street**

Description:

Lots 12 to 15, inclusive.

Block 4,

Caseys subdivision of a portion of North Highlands, City and County of Denver, State of Colorado.



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- Business Information
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## Summary

| Details                                 |  |                       |             |
|---|--|-----------------------|-------------|
| <b>Name</b>                             | 4402 CORPORATION                                       |                       |             |
| <b>Status</b>                           | Good Standing  | <b>Formation date</b> | 12/17/1996  |
| <b>ID number</b>                        | 19961163897  | <b>Form</b>           | Corporation |
| <b>Periodic report month</b>            | December   | <b>Jurisdiction</b>   | Colorado    |
| <b>Principal office street address</b>  | 4402 UMATILLA STREET, DENVER , CO 80211, United States |                       |             |
| <b>Principal office mailing address</b> | n/a  |                       |             |

| Registered Agent       |   |
|------------------------|---|
| <b>Name</b>            | PAUL CLARK  |
| <b>Street address</b>  | 4402 UMATILLA ST, Denver, CO 80211, United States |
| <b>Mailing address</b> | n/a   |

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Reception No. 9700001639 1997/01/06 13:43:01 1/ 1 WD  
DENVER COUNTY CLERK AND RECORDER 6.00 11.25 AWE

**WARRANTY DEED**

THIS DEED Made this 23rd day of December, 19 96  
between Duane Robertson,

of the City and County of Denver and State of Colorado  
grantor, and 4402 Corporation, a Colorado Corporation

whose legal address is 10058 W Tufts Place, Littleton, CO 80121

of the County of Jefferson and State of Colorado grantee  
**WITNESSETH** that the grantor for and in consideration of the sum of ONE HUNDRED TWELVE THOUSAND  
FIVE HUNDRED AND NO/100-----

-----DOLLARS (\$112,500 00 )

the receipt and sufficiency of which is hereby acknowledged, has granted bargained sold and conveyed and by these presents  
does grant bargain sell convey and confirm unto the grantee his heirs and assigns forever all the real property together with  
improvements if any situate lying and being in the City and County of Denver and State of Colorado  
described as follows:  
Lots 12 to 15, inclusive,

Block 4,  
Casey's Subdivision of a portion of North Highlands,  
City and County of Denver, State of Colorado

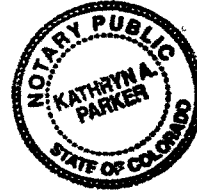
also known by street and number as 4402 Umatilla Street, Denver, Colorado 80211

**TOGETHER** with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining and  
the reversion and reversions remainder and remainders rents issues and profits thereof, and all the estate right title interest  
claim and demand whatsoever of the grantor either in law or equity of in and to the above bargained premises with the  
hereditaments and appurtenances.

**TO HAVE AND TO HOLD** the said premises above bargained and described with the appurtenances unto the grantee, his  
heirs and assigns forever. And the grantor for himself his heirs and personal representatives does covenant grant bargain and  
agree to and with the grantee his heirs and assigns that at the time of the sealing and delivery of these presents he is well  
seized of the premises above conveyed has good sure perfect, absolute and indefeasible estate of inheritance, in law in  
fee simple and has good right, full power and lawful authority to grant bargain sell and convey the same in manner and form  
as aforesaid and that the same are free and clear from all forms and other grants bargains sales liens taxes assessments  
encumbrances and restrictions of whatever kind or nature soever except for taxes for the current year, a lien but not yet due  
or payable, easements, restrictions, reservations, covenants and rights-of-way of record, if any.

The grantor shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession  
of the grantee his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.  
The singular number shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders  
**IN WITNESS WHEREOF** the grantor has executed this deed on the date set forth above.

*Duane Robertson*  
Duane Robertson



STATE OF COLORADO )  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this 23rd day of December, 19 96 by  
Duane Robertson

My Commission expires April 20, 1999

Witness my hand and official seal  
*Kathryn A. Parker*  
Notary Public  
Kathryn A. Parker

WARRANTY DEED (for Photographic Record)

1.0# G065961A96

R.F. # 600

D.F. # 1125

DENVER

STG #G065961A96



2828 N Speer Blvd.  
#220  
Denver, Colorado 80211

To Whom It May Concern:

In our proposal to rezone 4402 Umatilla St from PUD to MS-2 we have met and discussed the review criteria with Councilman Espinoza, Denver CPD, and the RNO. All parties agreed that based on Denver Zoning Code review criteria the proposed rezone would make sense. Here is a recap of the how the rezone meets all the five review criteria:

1. **Consistency With Adopted Plans:** This property is surrounded by MS-2 zoning to the north, west, and east so would have been rezoned to MS-2 back in 2010 to comply with Blueprint Denver had it not been zoned PUD. The MS-2 zoning also fits in line with Sunnyside Neighborhood Plan & Assessment.
2. **Uniformity of District Regulations:** As mentioned above all the zoning immediately surrounding the property is MS-2 so the requested rezoning would be uniform with neighboring properties.
3. **Further Public Health, Safety, & Welfare:** The current property does have an active business running out of it, but we are hoping with the rezone to make this a true mixed use building with several successful business operating out of it. The building does have some deferred maintenance and we plan to renovate the building along with curb appeal. Our plan to have several businesses running out of the building should provide additional jobs for the area and increased property and sales tax base.
4. **Justifying Circumstances:** The property is in a high profile location along the main 44th Ave corridor of Sunnyside. The neighborhood would benefit from a rezone to MS-2 and is supported by Sunnyside United Neighbors, Inc.
5. **Consistency with Neighborhood Context, Zone District Purpose, & Intent:** As mentioned previously the property is surrounded by other properties zoned MS-2 so is consistent with the neighborhood context and zone district purpose.

Thank you for your time and we look forward to working with you towards a successful rezone.

Sincerely,

GM Development

303.910.7015 • 303.305.9400

**4402 Umatilla Street**

Description:

Lots 12 to 15, inclusive.

Block 4,

Caseys subdivision of a portion of North Highlands, City and County of Denver, State of Colorado.

Area Map indicating property to be rezoned will be prepared by the Department of Zoning Administration

City and County of Denver  
DEPARTMENT OF ZONING ADMINISTRATION  
APPLICATION FOR ZONE MAP AMENDMENT

Application Number  
**4083 (Revised)**  
Date Submitted: 7/27/94  
Fee: \$600.00

1. Applicant: Michael A. Munoz  
2. Address: 4402 Umatilla Street, Denver, CO 80211  
3. Phone No.: 477-1436 (W), (303) 427-5476  
4. Interest:  Owner(s),  Agent,  Other

5. Owners of Property or Properties (If not the Applicant)  
6. Address  
7. Phone No.

8. Location of Proposed Change  
4402 Umatilla Street

9. Legal Description of Property: (If Legal Description is lengthy, please attach additional sheet.)  
Lots: 12 to 15 Inclusive Block: 4 Addition: Casey's Subdivision of a Portion of North Highlands

10. Area of Subject Property, Sq. Ft. or Acres: 12,237 sq ft.  
11. Present Zone: PUD #89  
12. Proposed Zone: PUD #35B

13. Describe briefly the nature and expected effect of the proposed amendment. Be sure to include an explanation of the legal basis for the proposal: either (a) the error in the map as approved by city council, or (b) the changed or changing conditions making the proposed amendment necessary. The proposed change is requested to expand the list of uses under the current P.U.D. by one category (repair, rental & servicing) to respond to changed conditions in the neighborhood. The changing conditions are which would justify the rezoning and help maintain the neighborhood the economy and growth patterns.

14. Use and development proposed for the property to be rezoned. The existing structure shall be used for MM's Auto repair. The structure will remain the same, However, improved landscaping and additional parking and walk areas are planned. The proposed P.U.D. would allow every use permitted in the B-2 district with exception of an adult book store use ML- suggest changing this to any sexually orieged commerical enterprise, which the Jefferson Park, Highlands, Sunnyside Neighborhood organization suggested we exclude. In addition, it would include the follow uses:  
  
Special Trades Contractor use: Section 59-337 (1) (g) B-4  
Assembly, and fabrication use: Section 59-337 (1) (e) B-4  
Sale at retail, Sale at wholesale and warehousing use: Sec, 59-337 (1) B-4 Repair, rental and Servicing: Section 59-337 (1) (6) B-4

15. Exhibits Submitted, Number and Kind  
PUD Application  
Existing Conditions Map  
District Plan  
16. Applicant's Signature  
Michael A Munoz Sr.



PERMITTED USES

All B-2 used by right as defined in Section 59-277 (1) of The Revised Municipal Code except for the following: Adult bookstore, eating place with adult amusement or entertainment, any other sexually oriented commercial enterprise, single unit dwelling, and multiple unit dwelling.

Sale at retail, sale at wholesale and warehousing as defined in Section 59-337 (1)a. of the Revised Municipal Code.

Repair, rental and servicing as defined in Section 59-337 (1)b. of the Revised Municipal Code.

Fabrication and assembly as defined in Section 59-377 (1)e. of the Revised Municipal Code.

Special trades contractor as defined in Section 59-377 (1)g. of the Revised Municipal Code.

Parking and/or commercial Storage of vehicles as defined in Section 59-377 (1)c.14. of the Revised Municipal Code, must be enclosed.



TOTAL F.A.R. 0.34:1  
(Floor Area Ratio = gross floor  
area divided by site area) LAND  
TO BE DEDICATED FOR PUBLIC STREETS  
SHOULD NOT BE INCLUDED IN THE SITE AREA.

For residential uses:

Maximum number of dwelling units N/A  
Density (ratio of dwelling units  
per acre) \_\_\_\_\_

b. EXISTING LAND COVERAGE BY BUILDINGS AND IMPERVIOUS SURFACES:

Maximum building coverage:

4,158 sq.ft. 34 % of site area

Maximum area of drives and parking:

3,163 sq.ft. 25.8 % of site area

Approximate area of other impervious surfaces:

0 sq.ft. 0 % of site area

Total impervious surface:

7321 sq.ft. 59.8 % of site area

c. LANDSCAPED AREAS AND/OR PERMEABLE AREAS:

Live or Organic landscaped lot coverage:

minimum 4,916 sq.ft. 40.2 % of site area

Non-live lot coverage (gravelled and other permeable surfaces)

approximate: \_\_\_\_\_ sq.ft. \_\_\_\_\_ % of site area

Total minimum area: 4,916 sq.ft. 40.2 % of site area

d. PROJECT AREA TOTALS: (totals of "b" and "c")

Landscaped areas (permeable surfaces): 4916 sq.ft.  
Building and impervious surfaces: 7321 sq.ft.  
Total site area: 12237 sq.ft.  
(this area must equal site area listed on page 1)

e. SETBACKS: (The minimum setbacks must be shown on the District Plan. A building envelope may be used to graphically depict the minimum setbacks required.)

North: 13 ft.                      Front: \_\_\_\_\_ ft.  
South: 1.5 ft.                      OR              Rear: \_\_\_\_\_ ft.  
East: 10 ft.                      Side: \_\_\_\_\_ ft.  
West: 10 ft.

Minimum spacing between structures N/A

Encroachments into setback space will conform to Section 59-279(b) (1)-(4) of the (B-2) zone district.  
(6)&(7)

Official Parkway setback requirements for this P.U.D. are:  
0 ft. for buildings and 0 ft. for signs.

f. MAXIMUM HEIGHT OF STRUCTURES:

Maximum height: 1 stories 25 ft.

Rooftop features (such as solar collectors, antennas, chimneys, flues, vents, and air conditioning equipment.) may exceed these heights by: 6 ft.

The height of a building shall be determined by the vertical distance from the highest point of a pitched roof or to the highest parapet around a flat roof to the average elevation of the corners of the proposed building at the finished grade.

If bulk plane restrictions are to be utilized, these restrictions will conform to those of the N/A zone district. (solar collectors and mechanical equipment are not excepted from bulk plane restrictions!!!)

g. OFF-STREET PARKING:

This project shall contain 5 off-street parking spaces at the ratios shown below.

Use (a): any permitted use listed in 2a Ratio: 825 sq.ft g.f.a

Use (b): \_\_\_\_\_ Ratio: \_\_\_\_\_

Use (c): \_\_\_\_\_ Ratio: \_\_\_\_\_

Spaces per dwelling unit: \_\_\_\_\_

Number of parking spaces for persons with disabilities: 1

Will this PUD conform to the requirements of Article V, Off-Street Parking? Yes ( ), Yes, except as noted below ( ) or No (x).

If not, or if there are any exceptions, please provide the following information:

(1) Parking space dimensions:  
Universal spaces: \_\_\_\_\_  
Small car spaces: \_\_\_\_\_

(2) Driving aisle widths: \_\_\_\_\_  
Angle of stalls: \_\_\_\_\_

(3) Ratio of small car spaces to large car spaces: \_\_\_\_\_

h. OFF-STREET LOADING SPACES:

This PUD will contain 0 off-street loading spaces. These spaces will conform with all of the requirements of Article VI, Off-Street Loading. If not, please provide the following information:

Off-street loading space dimensions: N/A

i. SURFACE DRAINAGE: The rules and regulations of the Wastewater Management Division will require certain design and construction considerations to control surface water runoff. Does the site contain a flood hazard area as identified by the Federal Emergency Management Agency? Yes ( ) No (x)  
Does the site contain wetland areas? Yes ( ) No (x)  
(For assistance, contact WMD at 964-0600.)

j. Interior streets, drives, parking areas and pedestrian walkways within the PUD district, if any, are shown on the District Plan.

k. EASEMENTS: Existing and/or proposed utility and/or access easements are shown on the District Plan or are located as follows: none

l. LANDSCAPING AND BUFFERING: Areas to be landscaped are shown on the District Plan. However, a more detailed landscaping plan may be required by the Planning Office. (A detailed landscape plan is required as a part of the site plan review phase after the rezone is approved.)

- (1) Minimum number of trees to be planted: 0
- (2) Minimum size of trees at time of planting: 0
- (3) Minimum % of evergreen or coniferous trees: 0 %
- (4) Minimum number of shrubs to be planted: 0
- (5) Minimum size of container for planted shrubs: 0

Will the proposed PUD comply with the parking lot landscaping requirements of Sec. 59-585(10) ? Yes ( ) No ( ).

All foliage shall be maintained in a healthy, growing and safe condition. Where street trees are proposed or required on the public-right-of-way, such trees shall be installed in accordance with the requirements of the City Forester. (964-2580)

Number of street trees proposed: \_\_\_\_\_

If street tree plantings are required within the right-of-way of a state highway contact the Colorado Department of Transportation for approval (757-9930).

NOTE: Applicant shall maintain existing trees located in the right-of-way and replace any tree that should die with a tree of comparable quality.

Fences and/or Walls:

The maximum height of fences and/or walls that may be built in the PUD district, except for front setback spaces: 6 ft. \*

The maximum height of fences and/or walls that may be built within the PUD district front setback spaces: 4 ft.

Such fences and/or walls shall be either solid and view-obscuring, or open and view-permitting as required by the District Plan and shall be shown (include the size and types of materials permitted) on the District Plan. Fences and/or walls shall be subject to Sec. 59-38(11) "Overheight Fences And Walls".

Earthen berms or mounds used for screening shall be landscaped and, if utilized, shall be shown on the District Plan.  
Maximum height: N/A ft.  
Minimum height: N/A ft.

m. BOAT, CAMPER, TRAILER AND RECREATION VEHICLE STORAGE:

Permitted ( ) Not Permitted (x)

If permitted, screening fences will ( ) will not ( ) be provided. Such fences shall be not less than          ft. nor exceed          ft. in height.

Maximum length of trailer and/or recreational vehicles permitted:                      ft.

All such storage facilities shall be shown on the District Plan.

n. DEDICATIONS AND IMPROVEMENTS:

The owner understands that City ordinances and agency rules and regulations may require the dedication of additional right-of-way and the construction of certain public improvements. If this proposal involves the vacation of certain public rights-of-way for incorporation into the project area, such vacation must be approved prior to or at the public hearing on this proposal.

o. EXTERNAL EFFECTS: (vibration, heat, glare, radiation, and fumes)

These effects will be regulated by Sec. 59-338.001.001 (B-4 zone district). Reflective glass will ( ) will not (x) be used.

\* not including barbed wire. Existing barbed wire atop the chain link fence, now used to help prevent criminal activity from occurring on the subject property, shall be removed once the threat of such criminal activity is substantially reduced.

- p. The existing grade of the site will ( ), will not ( ) be altered.
- q. Utilities (public and private) serving the property are located (where?) in adjacent Public Row

For information contact the following:

|                         |          |
|-------------------------|----------|
| Denver Water Department | 628-6100 |
| U.S. West               | 896-5325 |
| Public Service Company  | 571-3527 |
| Wastewater Management   | 964-0500 |

- r. SIGN CONTROLS: The project will be regulated by the following:
  - Sec. 59-537, Signs permitted in all districts
  - Sec. 59-538, Sign area measurement
  - Sec. 59-550, regulations for the B-2 district

If no specific regulations are referenced here, complete the following:

Maximum number of signs: \_\_\_\_\_  
 Permitted sizes of signs: \_\_\_\_\_  
 Maximum sign area allowed: \_\_\_\_\_  
 Number of ground signs allowed: \_\_\_\_\_  
 Number of joint ID signs allowed: \_\_\_\_\_  
 Maximum size of joint ID sign(s): \_\_\_\_\_  
 Temporary signs allowed: \_\_\_\_\_

Number of canopies and awnings: \_\_\_\_\_ Backlit ? Yes ( ) No ( )

All ground, monument, and joint ID sign locations and setbacks must be shown on the District Plan.

- s. OUTDOOR STORAGE OF PRODUCTS, MATERIALS, OR SOLID WASTE:
  - \* Permitted (X) Not Permitted ( )
  - Screened ( ) Not Screened ( )
  - Height of solid fence or screening wall: 6 ft.

- t. CURRENT TRAFFIC VOLUMES:  
 The current traffic volumes on streets in or adjacent to the project must be shown on the Existing Conditions Map. These volumes are available for major streets from the Transportation Engineering Division, or the Planning Office or may be estimated by the applicant based on a professional traffic study. Streets for which no estimate is available should be noted.

Site generated traffic should be estimated and noted by the applicant based on proposed project type, size, and other relevant factors. Ratios for estimating traffic are available in Institute of Transportation Engineers reference books at the library.

\* Storage of products, materials and solid waste shall normally occur within an enclosed structure. If outdoor storage of said items does occur, such storage shall occur in an area that is completely screened from view by a solid fence or wall.

PUD at 4402 Umatilla Street  
Address

For projects with total daily site generated traffic of more than 200 vehicle trips, or for projects in areas with special problems, more detailed analysis may be required, and the applicant should contact the Transportation Engineering Division at 640-3958 for further guidance.

Public Transportation: The nearest bus stop is located:  
(Where?) on property line at 44th Ave

- u. FUTURE SCHOOL SITES: (Applicable to large residential PUD'S; contact Denver Public Schools for more information.)  
Will be dedicated. ( ) Will not be dedicated. ( )
- v. HOME OCCUPATIONS: (Residential PUD'S only)  
Permitted ( ) Not Permitted ( )  
Shall conform to Sec. 59-\_\_\_\_\_ of the N/A district.
- w. TEMPORARY USES: Uses by temporary permit will be regulated by Sec. 59-337(2) (B-4 zone).
- x. ACCESSORY USES: Will be permitted and regulated by Sec. 59-337 (3) (B-4 zone)
- y. INTERIM USES: Prior to the development of this project, the property may be used on an interim basis for the following uses within existing buildings: All Allowed in  
pub 89  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- z. PHASING: Developed in phases ? Yes ( ) No (x)  
If yes, specify the phasing and the improvements to be constructed in each phase: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Anticipated starting date \_\_\_\_\_ Completion date \_\_\_\_\_

A SEPARATE SITE PLAN REVIEW IS REQUIRED FOR ALL PUD'S PRIOR TO OBTAINING ZONING OR BUILDING PERMITS FOR CONSTRUCTION. CONTACT THE ZONING ADMINISTRATION FOR MORE DETAILS. THIS PROCESS, IF REQUIRED, MAY BE STARTED AFTER THE PLANNING BOARD HEARINGS ARE COMPLETED.

3. On an attached page a written statement is given generally describing:
  - a. The proposed PUD and the market it is intended to serve.
  - b. Its relationship to the Comprehensive Plan: where the applicant's objectives are not in substantial conformance with the changing conditions that justify approval of the proposed PUD District. (For help with this contact the Denver Planning Office.)
  - c. How the proposed PUD District is to relate to the character of the surrounding neighborhood.
4. The "Existing Conditions Map" is attached following the written statement described above.
5. The "District Plan" is attached following the "Existing Conditions Map".  
This plan includes the following listed and attached drawings or renderings: included are petitions of approval and letters
 

|  |   |
|--|---|
| <u>    </u> Architectural concepts                       | <u>    </u> Building elevations         |
| <u>    </u> Facade treatments                            | <u>    </u> Exterior building materials |
| <u>    </u> Other important features (Please list) _____ |   |

6. ACKNOWLEDGEMENT:

- a. The applicant for this PUD is the owner or owners of all of the property contained within the proposed PUD District or is the agent for the owner or owners of all the property contained within the proposed PUD District. (Agents must supply proof of agency from the owner or owners of the property at time of application.)
- b. The applicant understands that vested property rights shall be created ninety (90) days after the approval of this district plan by the Denver City Council. These vested property rights shall remain vested for a period of three (3) years in accordance with Sec. 59-29.

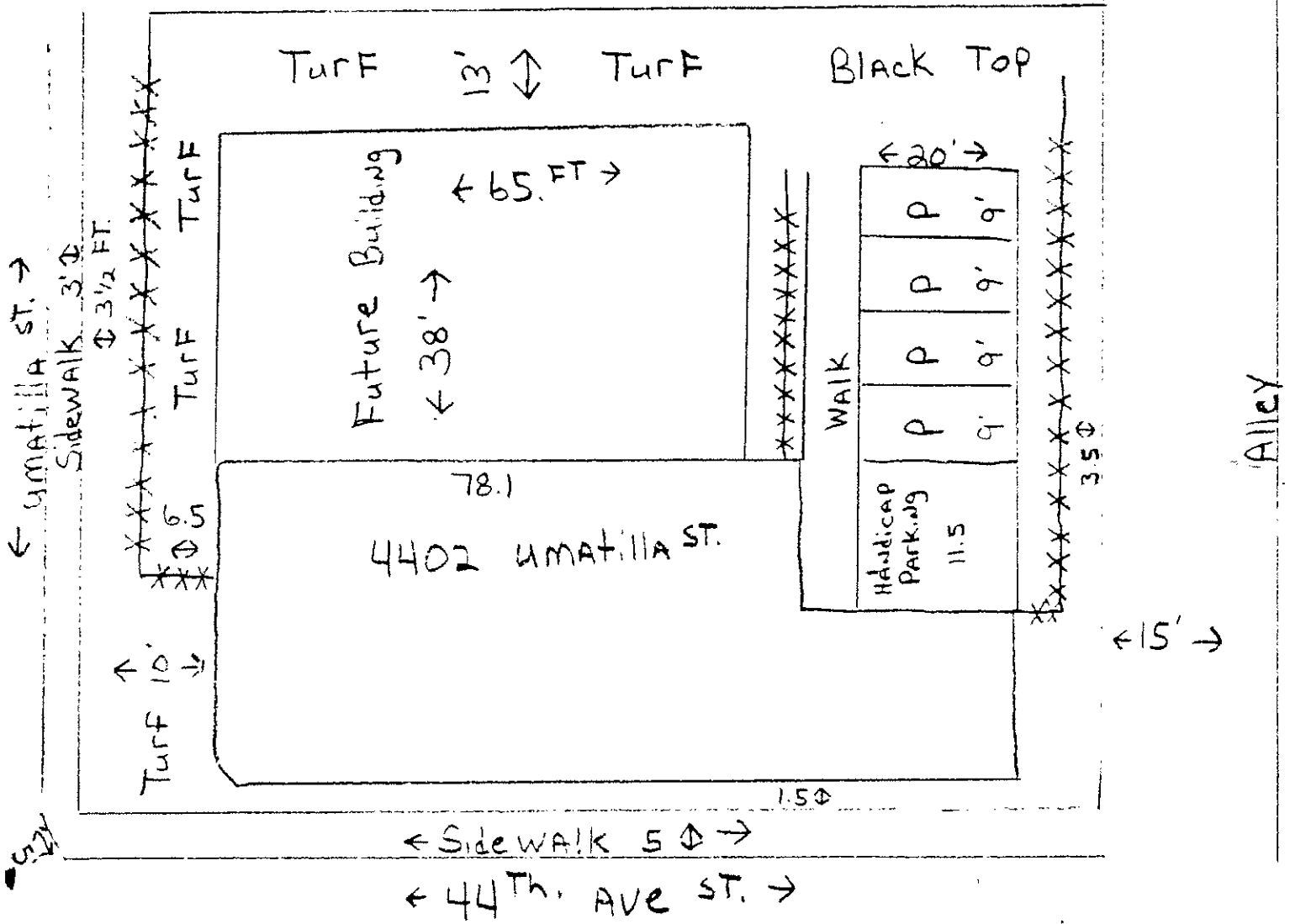
Michael A. Munoz  
Print or type applicant's name

[Handwritten Signature]  
Applicant's signature



# District PLAN MAP

5-1-94



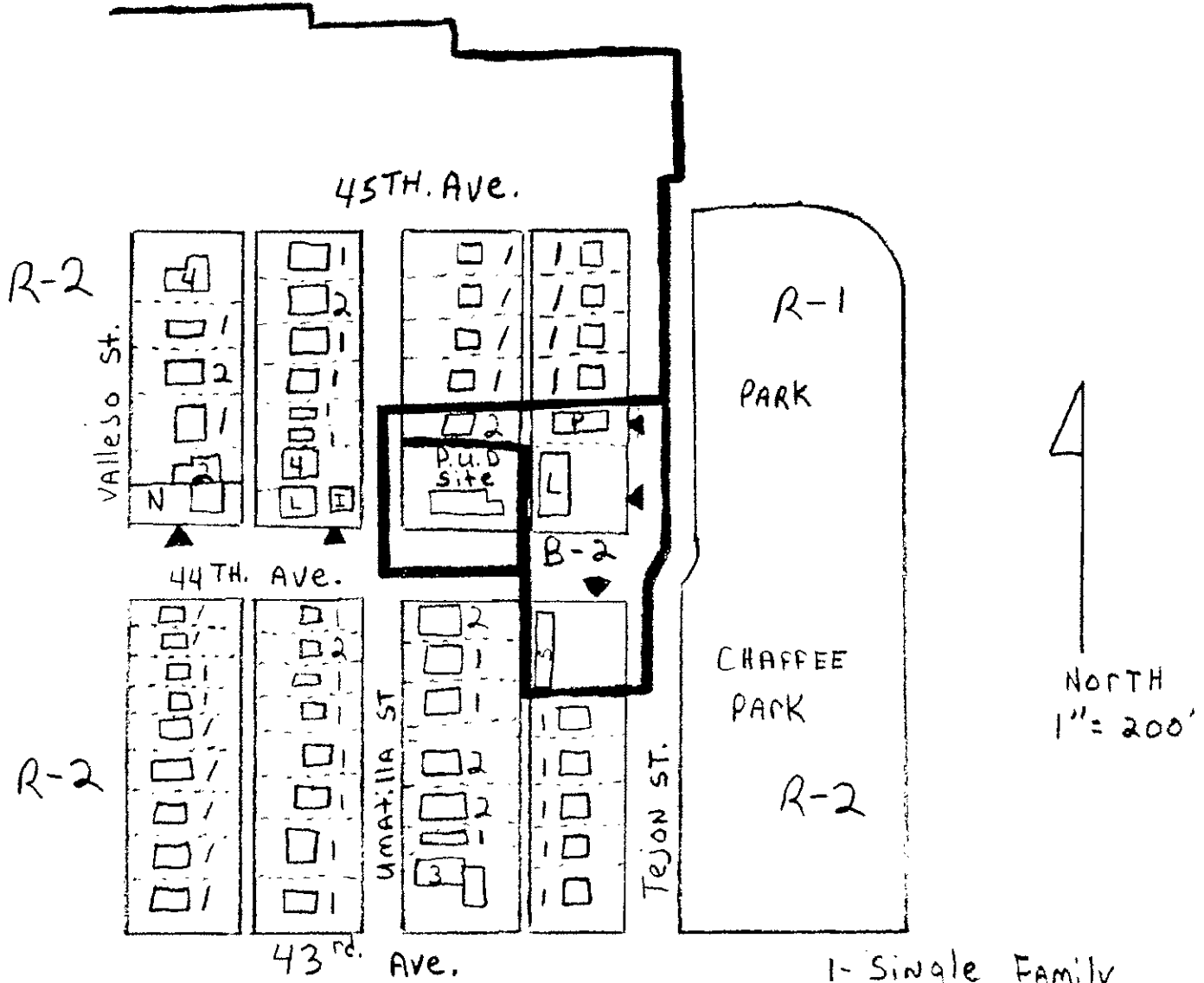
TRAFFIC COUNT ON AVERAGE DAY  
 FOR P.U.D SITE  
 15 VEHICLES PER 24<sup>HR</sup> PERIOD

- P = PARKING
- XXX = 6 FT FENCE (not including barbed wire)
- T = Turf
- ▲ = CURB CUT

# Existing Conditions

4402 UMATILLA

10-1-93



Project Area -

curb cuts - ◀

Traffic Counts

44th Ave - 3,500 vehicles Per 24<sup>hr</sup> Per od  
 Tejon St. - 6,200 vehicles Per 24<sup>hr</sup> period  
 Umatilla St - UNAVAILABLE

- 1- Single Family
- 2- Duplex
- 3- Triplex
- 4- Fourplex
- S- Store
- N- North metro Radiator
- L- Lounge
- P- Pool Shark
- I- Better Brake S...

Application #4083 (Reviewed)  
4402 Umatilla Street



SIGNS  
TO  
PARKS  
PARK  
250'



PUD #89  
B-2

B-2

