



TO: Land Use, Transportation, & Infrastructure Committee of the Denver City Council
FROM: Chandler Van Schaack, Senior City Planner
DATE: August 16, 2018
RE: Official Zoning Map Amendment Application #2017I-00171
5124, 5128, 5132 & 5136 W 41st Ave.
Rezoning from U-SU-C1 to U-MX-2x

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation, and Infrastructure Committee move Application #2017I-00171 forward for consideration by the full City Council.

Request for Rezoning

Application:	#2017I-00171
Address:	5124, 5128, 5132 & 5136 W 41 st Ave.
Neighborhood/Council District:	Berkeley/ Council District 1
RNOs:	Berkeley Regis United Neighbors, Inc., United Northside Neighborhood, Denver Neighborhood Association, Inc., Inter-Neighborhood Cooperation
Area of Properties:	7,108 square feet (0.16 acres)
Current Zoning:	U-SU-C1
Proposed Zoning:	U-MX-2x
Property Owner(s):	White Fence Properties LLC
Owner Representative:	Jack Ordway

Summary of Rezoning Request

- The property is located in the Berkeley neighborhood, at the corner of W. 41st Ave. and Sheridan Ave.
- The property currently contains a single-story mixed-use building with three residential units and a retail store. Parking for the building is located to the rear of the building, off Sheridan Ave. The existing retail store is considered a legal non-conforming use.
- The applicant is requesting the rezoning in order to bring the existing retail use into conformance with the Denver Zoning Code for insurance and mortgage compliance.
- The **U-MX-2x** (Urban Neighborhood, Mixed Use, 2 story) zone district is intended to provide safe, active, and pedestrian-scaled diverse areas in established residential neighborhoods. The “x” indicates that allowed uses are more limited than in the U-MX-2 zone district. The U-MX-2x zone district applies to areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood where a building scale of 1 to 2 stories is desired. Further details of the zone district can be found in Article 5 of the Denver Zoning Code (DZC).

Figure 1: Council District Map

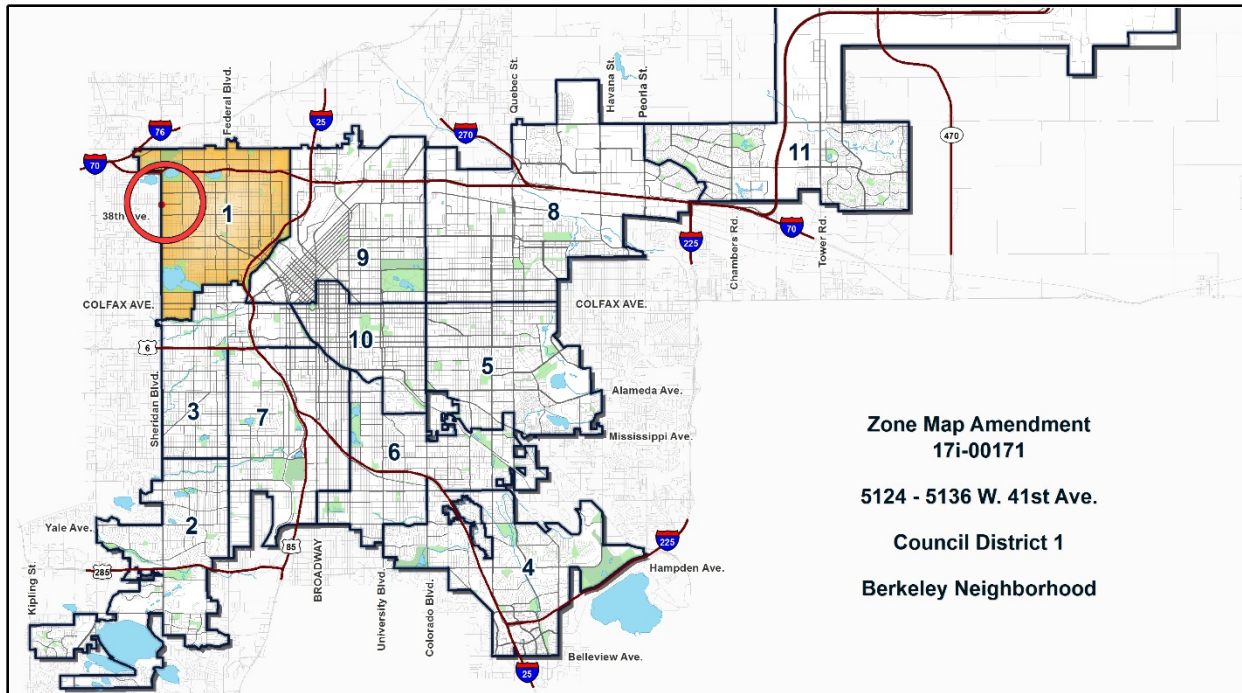


Figure 2: Neighborhood Map

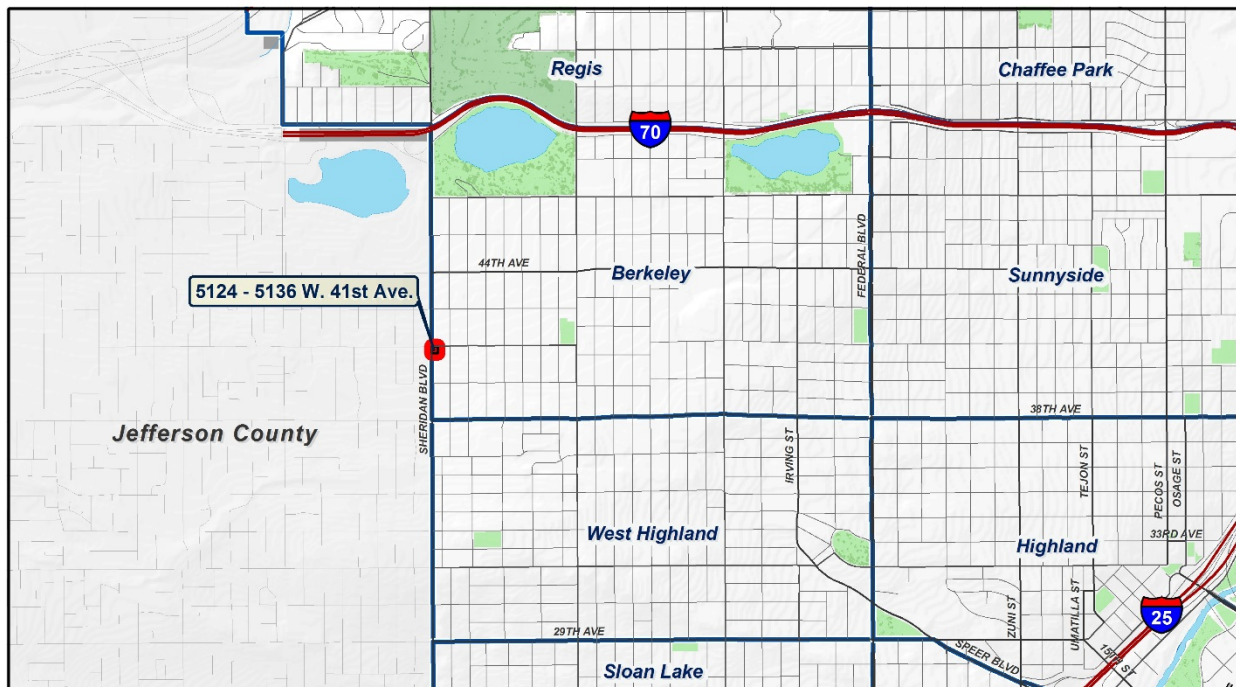
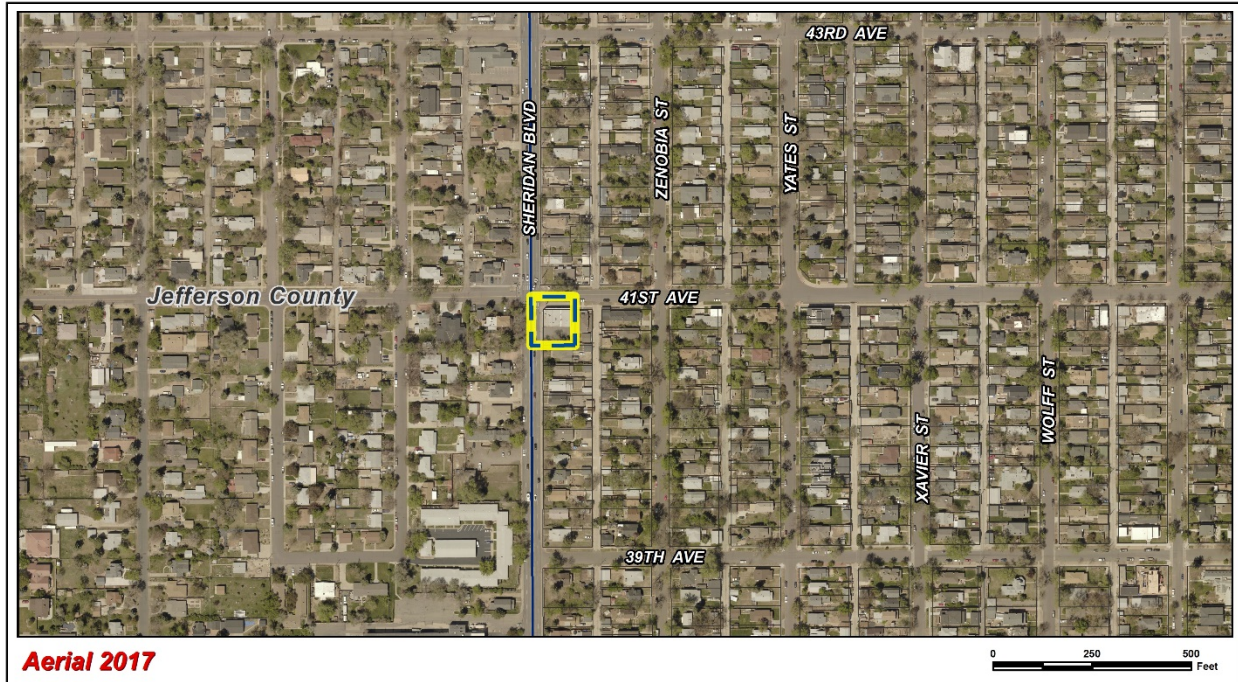


Figure 3: 2017 Aerial Map



Existing Context

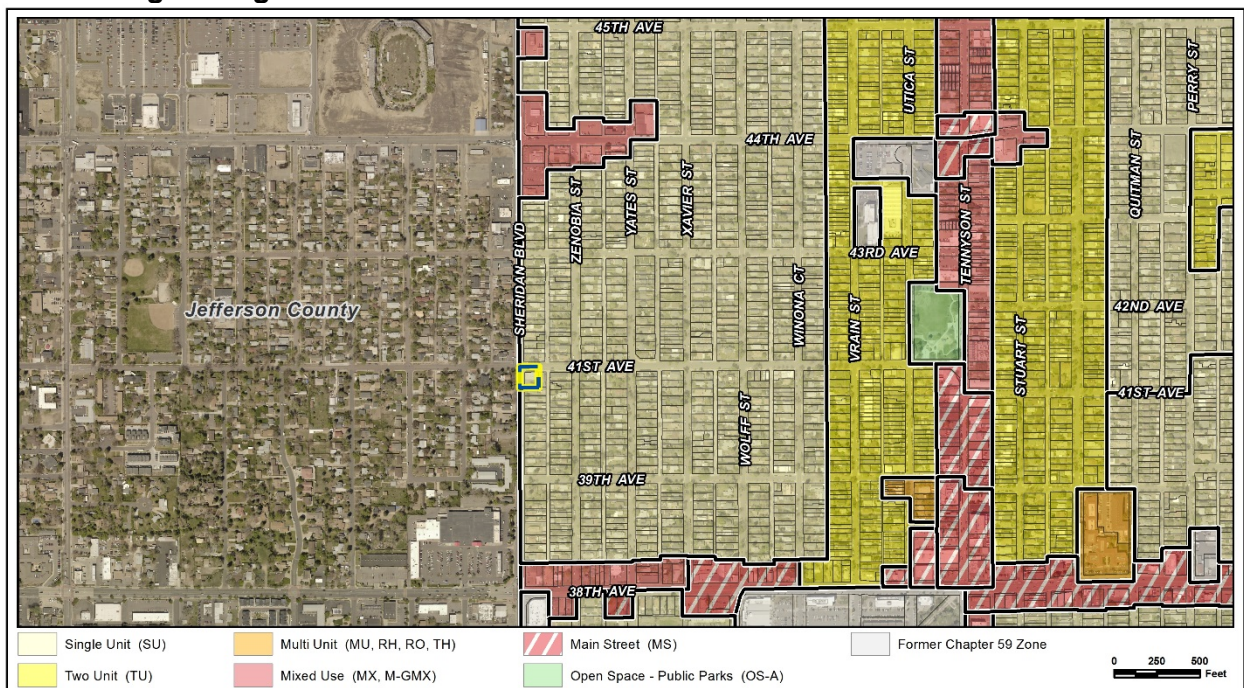
The subject property is located within the Berkeley neighborhood at the corner of W. 41st Ave. and Sheridan Blvd. The existing building was constructed in 1906, and contained four non-conforming commercial uses under the former R-2 zoning from 1956 until 2000, when three of the commercial uses were converted to attached residential units. The building and uses have remained unchanged since then, with three attached residential units and one commercial unit containing a neighborhood-serving retail store. Under the current U-SU-C1 zoning, the existing commercial use is considered non-conforming.

The area immediately surrounding the subject site is comprised of predominantly single family residential uses, with the Berkeley neighborhood to the east and a single-family area of Wheat Ridge immediately to the west across Sheridan Ave. There are two notable commercial areas to the north of the subject property at the intersection of Sheridan and 44th Ave., and to the south at Sheridan and 38th Ave. Both of these areas are zoned U-MX-2 and contain a variety of small-scale, embedded commercial uses.

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-SU-C1	Mixed Use	Single-story flat roof building with shallow setback, unit entries facing street and surface parking in rear	

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
North	U-SU-C1, U-MX-2	Single-unit residential and small-scale commercial	Urban houses on small lots, small-scale commercial uses to the north along 44th	Regular pattern of block shapes surrounded by an orthogonal street grid. The subject property lies at the intersection of an Arterial Street (Sheridan) and a Local Street (W. 41 st Ave) and has alley access.
South	U-SU-C1, U-MX-2	Single unit residential and small-scale commercial	Urban houses on small lots, small-scale commercial uses to the south along 38th	
East	U-SU-C1	Single-unit residential	One- and two-story single-unit residential	
West	City of Wheat Ridge	Single-unit residential	One- and two-story single-unit residential	

1. Existing Zoning



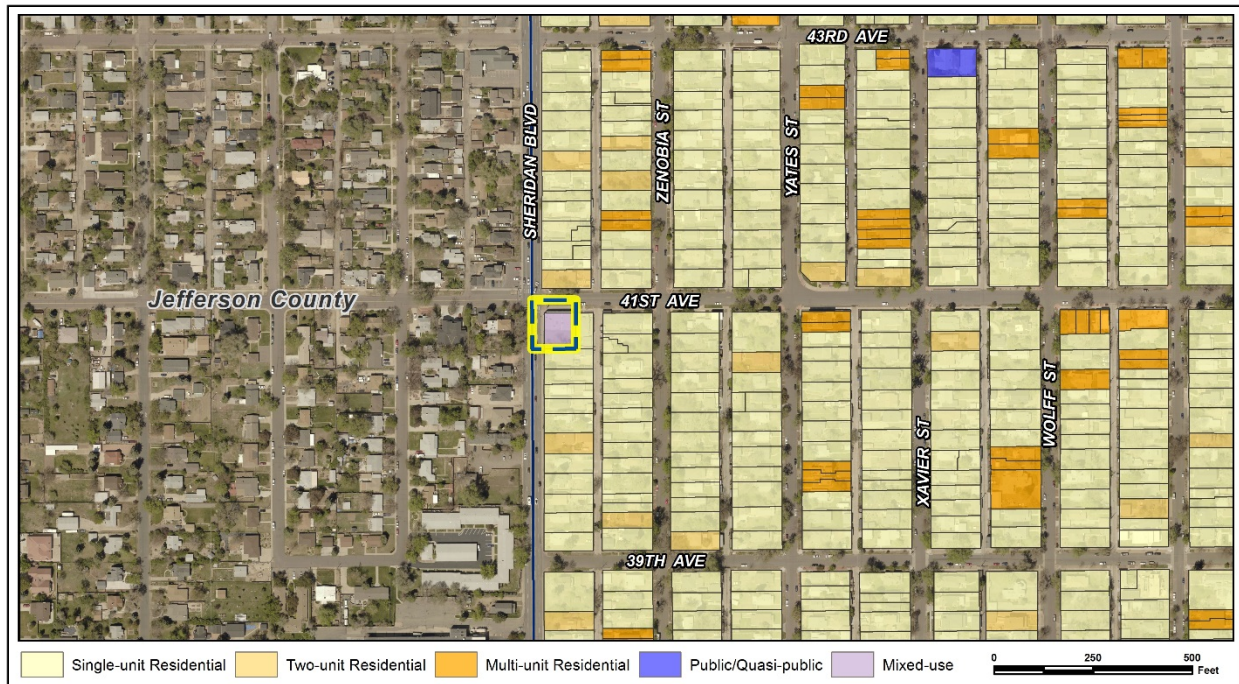
The existing zoning on the subject property is U-SU-C1, which is a single unit district in the Urban Neighborhood context allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 5,500 square feet. Blocks typically have a consistent pattern of 50-foot wide lots. Setbacks and lot coverage standards accommodate front and side yards similar to U-SU-C but allow a detached accessory dwelling unit building form in the rear yard. The Urban House is the only allowed primary building form. Allowed accessory building forms are the detached accessory dwelling unit, detached garage and other detached accessory structures building forms. The maximum allowed height for primary structures is 30 feet, and setback requirements are 10 feet

total for the sides and 12 or 20 feet for the rear, depending on if an alley is present. Primary street setbacks are block sensitive, depending on the setbacks of nearby structures, or a setback of 20 feet where a block sensitive setback does not apply. For additional details of the zone district, see DZC Article 5. The surrounding properties are all U-SU-C1, which is a Protected District. If the subject property is rezoned to U-MX-2x, it will be subject to all Protected District standards including additional setbacks and use limitations.

The subject property has contained a commercial use since 1953. The properties were rezoned to a single unit zone district as part of the 2010 citywide rezoning and Denver Zoning Code adoption, consistent with previous residential zoning and Blueprint Denver plan map recommendations. Several other nearby properties on historically commercial corners were rezoned to U-MX-2 which has better aligned existing conditions to zoning (see Map of Nearby Commercial Sites with U-MX-2 Zoning below).

2. Existing Land Use Map

Figure 5: 2016 Existing Land Use Map



3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the images on the following pages (Source: Google Maps).

Figure 6a: Aerial View of Subject Property

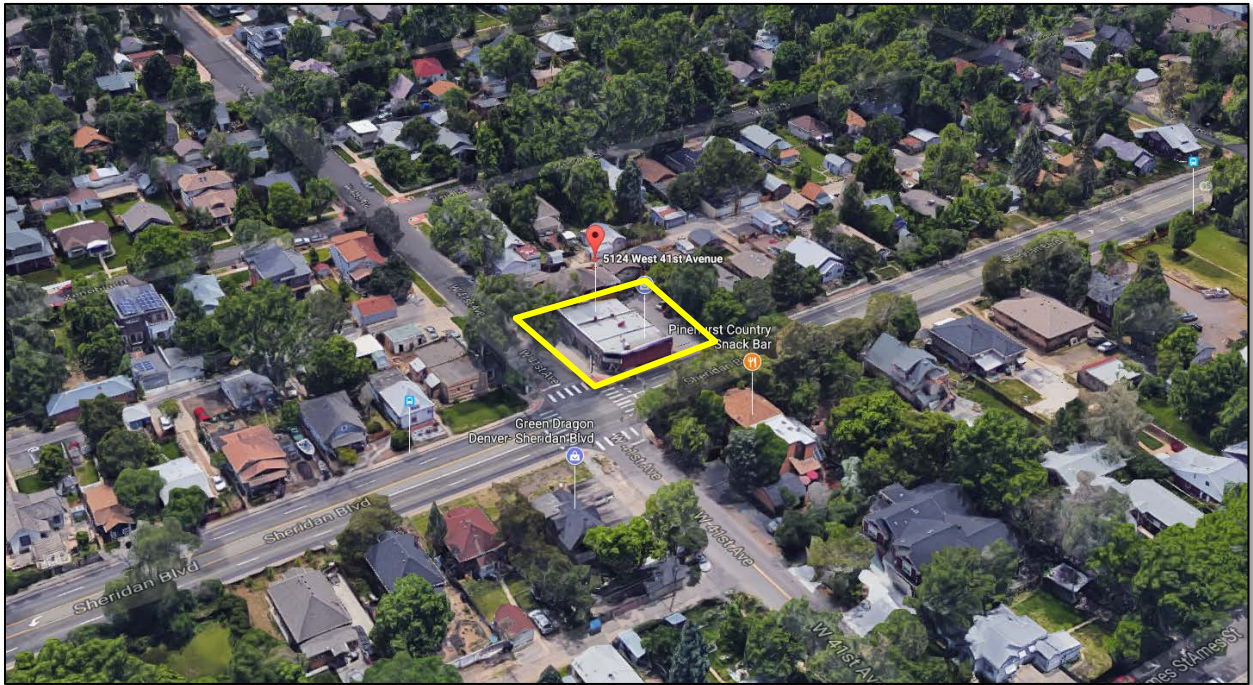


Figure 6b: View of Subject Property from 41st & Sheridan

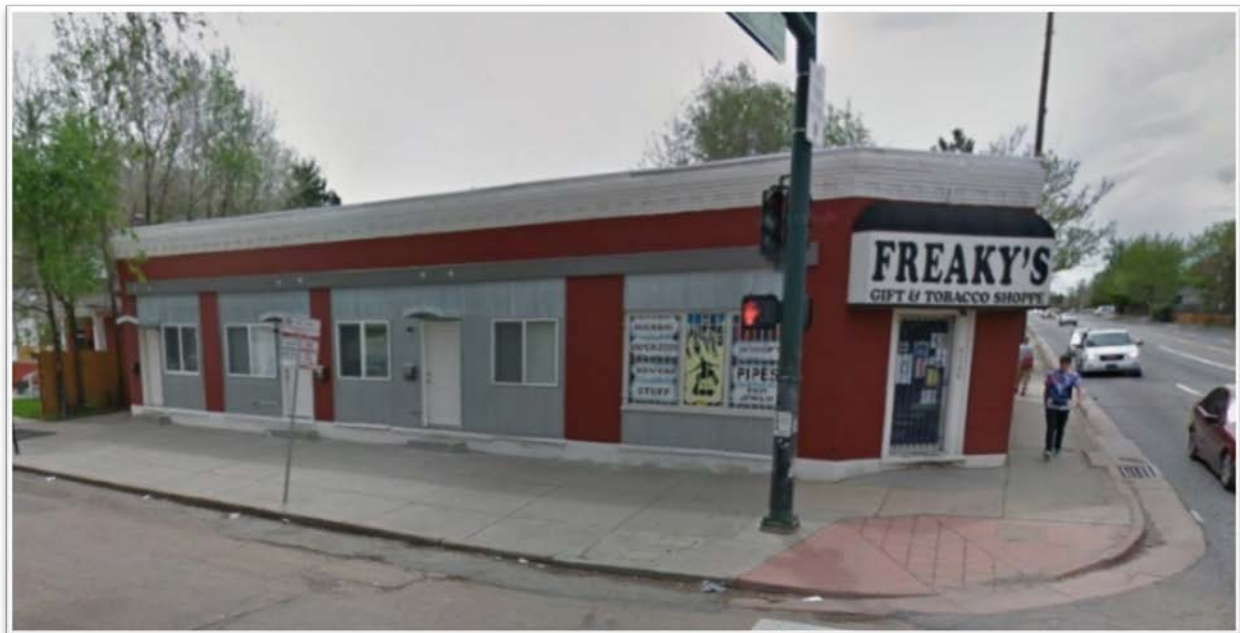


Figure 6c: View of Properties Across 41st to North



Figure 6d: View of Properties South of Site on Sheridan



Figure 6e: View of U-MX-2 Properties on Sheridan at 44th and 38th, respectively



Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

David Erickson, Department of Public Health and Environment

Approved - See Comments Below

Notes. DDPHE has information showing the site proposed for rezoning is the possible location of a former dry cleaner (D & S Cleaners). Dry cleaners historically have been a source of soil and groundwater contamination due to the release of dry cleaning solvents to the environment. DDPHE recommends evaluation of soil and groundwater to identify potential impacts from the previous use.

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.

If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.

The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.

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.

Russ Price, Development Services – Wastewater

Approved - See Comments Below

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.

From Denver GIS this site does not currently have access to a public sanitary sewer; a new private sanitary may be required.

Ali Gulaid, Public Works – Surveyor

Approved - See Comments Below

The West 81.2 feet of Lots 1, 2 and 3 and the West 81.2 feet of the North ½ of Lot 4, Block 12, Blocks 1 to 40 both inclusive, Berkeley, except the rear or Easterly 8 feet thereof, City and County of Denver, State of Colorado

[Public Review Process](#)

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations	2/28/18
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council and registered neighborhood organizations	7/17/18
Planning Board public hearing	8/1/18
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative)	8/10/18
Land Use, Transportation and Infrastructure Committee of the City Council review (tentative)	8/21/18
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative)	TBD
City Council Public Hearing (tentative)	9/8/2018

Registered Neighborhood Organizations

The RNOs identified on page 1 were notified of this application. Prior to the Planning Board hearing, staff received a letter from Berkeley Regis United Neighbors (BRUN) in opposition to the proposed rezoning (included as Attachment 2). There were no representatives of BRUN in attendance at the Planning Board hearing.

Planning Board

Planning Board voted unanimously (9:0) to recommend approval of the proposed rezoning to U-MX-2x.

Other Public Comment

In addition to the letter of opposition from BRUN, staff received questions and comments from one nearby resident who expressed concern over potential parking and traffic impacts associated with the proposed rezoning. A neighboring property owner spoke at the Planning Board hearing to express concerns over impacts to her property associated with the existing commercial use, and asked that the applicant take measures to reduce those impacts.

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 General 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 following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*

Denver Comprehensive Plan 2000

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

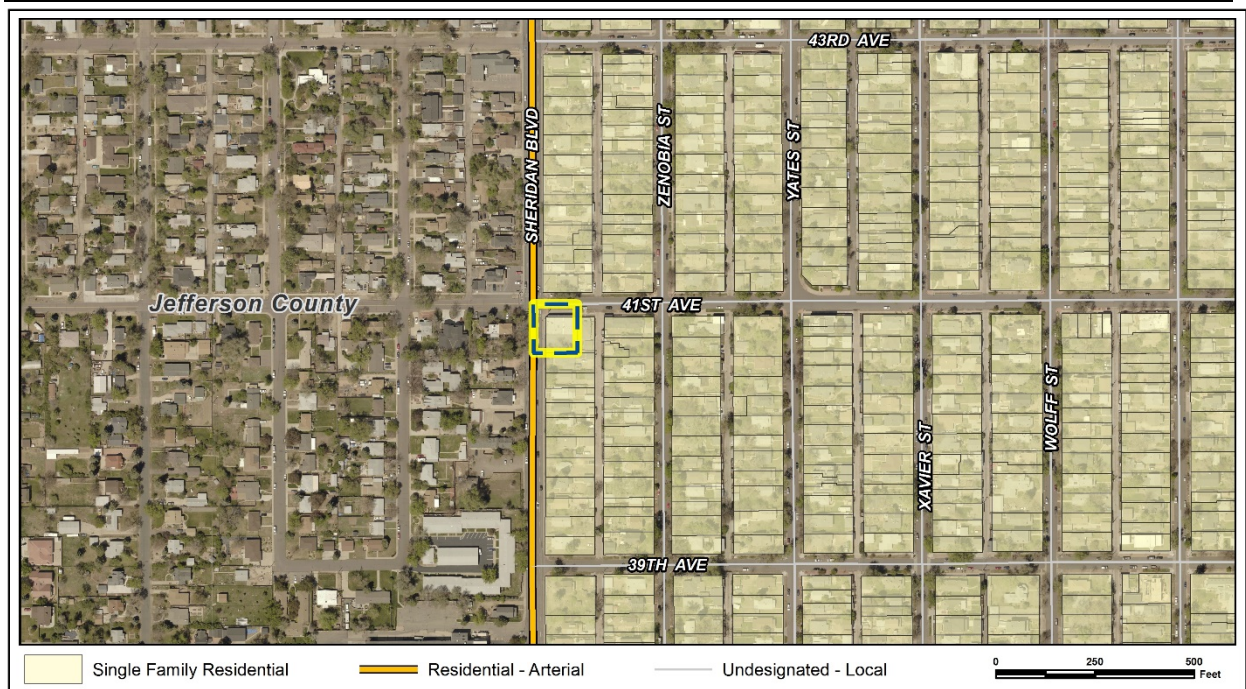
- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.* (p. 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)
- Land Use Strategy 3-D – *Identify and enhance existing focal points in neighborhoods, and encourage the development of such focal points where none exist.* (p. 60)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Economic Activity Strategy 5-A – *Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas.* (p. 136)

The proposed map amendment would allow for the continuation of an existing, embedded mixed use development compatible with the existing neighborhood in an area where services and infrastructure are already in place. The proposed U-MX-2x zoning would enable mixed-use infill redevelopment at a neighborhood focal point, consistent with the recommendations of Denver Comprehensive Plan 2000.

Blueprint Denver (2002)

According to *Blueprint Denver*, this site has a concept land use of Single Family Residential and is located within an Area of Stability.

Figure 7: Blueprint Denver Future Land Use & Street Classification Map



Future Land Use

Blueprint Denver describes Single Family Residential areas as those with “an employment base significantly smaller than the housing base” and with “single family homes as the predominant residential type”. This designation, which anticipates a small employment base, has applied to the subject property since Blueprint Denver was adopted in 2002. The subject property has never held a single family residential use. As mentioned before, the existing 4-unit building was constructed in 1906, and has contained some form of commercial use since at least 1956. In addition to the supporting language in the Single Family Residential land use designation, the value of this type of embedded commercial use is also recognized elsewhere in Blueprint Denver, which states, “A city should contain neighborhoods that offer a variety of housing types, as well as complementary land-use types such as stores, parks and schools that provide the basic needs of nearby residents” (p. 41).

The Berkeley Neighborhood has several such “complementary [commercial] land use types” embedded within the residential area, specifically to the north at Sheridan and 44th and to the south at Sheridan and 38th. Several of these properties are similar to the subject property in that they are made up of small zone lots with embedded commercial uses and single family residential land use designation. U-MX-2 zoning, which “applies to areas or intersections served primarily by local streets embedded within an existing or proposed neighborhood where a building scale of 1 to 2 stories is desired,” has been applied to these nearby properties in order to allow for continued commercial development at a scale that is compatible with the surrounding residential area. Therefore, given the subject parcel’s location at a less intense intersection than either of the previously mentioned commercial areas, and given that the owner has expressed a desire to continue the existing low-intensity

commercial use rather than redevelop at a higher intensity, the proposed rezoning of the subject parcel to U-MX-2x, which further limits the scope of the U-MX-2 zoning intent to provide only “low scale building forms and low intensity uses,” is appropriate for the subject parcel and consistent with the Blueprint Denver Land Use Designation.

Area of Change/ Area of Stability

The subject site is located in an Area of Stability. The goal for Areas of Stability is “to maintain the character of an area while accommodating some new development and redevelopment” at appropriate locations (p. 127). As mentioned previously, the subject parcel has contained some form of neighborhood-serving commercial use since at least 1956, and as such has contributed to the area character that the Area of Stability designation is intended to maintain.

The proposed U-MX-2x zone district is consistent with the nearby character and will allow for the continuation of a historic neighborhood-serving commercial use along with low intensity attached residential uses at an embedded site located on the corner of a residential arterial street.

Street Classifications

Sheridan Blvd. is classified as a Residential Arterial. Blueprint Denver states, “As arterials, residential streets balance transportation choices with land access, without sacrificing auto mobility (p. 55).” Blueprint Denver states “Movement of people and goods, also known as “mobility,” rather than access, is the primary function of an arterial street” (p. 51). Given that Sheridan Blvd. acts as both a neighborhood and citywide edge, and is intended to accommodate higher traffic volumes and more intense uses than collector or local streets, it is an appropriate location for the types of small-scale commercial development allowed through the proposed U-MX-2x zoning.

W. 41st Ave. is classified as an Undesignated Local street. Blueprint Denver states “the design features of local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). Anticipated traffic volumes on local streets are less than 2,000 vehicles per day. The majority of streets within the Berkeley neighborhood share this designation.

The proposed rezoning to U-MX-2x is consistent with the Residential Arterial and Undesignated Local street classifications because the zone district enables low-intensity and low-scale commercial and multi-unit residential uses along a street designated for slightly more intense residential purposes and traffic levels, while remaining locally accessible via the network of local streets within the neighborhood.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-MX-2x would 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 the implementation of the City's adopted plans. The proposed rezoning would maintain the character of the area while allowing for the continuation of small, neighborhood-serving commercial and multi-unit residential uses.

4. Justifying Circumstance

The rezoning is justified under DZC Section 12.4.10.8.A.4, *"Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest."* In this case, the requested rezoning is justified based on section 4.a., *"Changed or changing conditions in a particular area, or in the city generally."*

There has been and continues to be significant residential redevelopment in the Berkeley neighborhood within only a short walk from the subject property. The proposed map amendment would allow for a small neighborhood business to continue to operate and provide convenient commercial services to an increasing neighborhood population. Projects under construction within only a few blocks include the 39 units at 5000 W 38th Ave. and multi-unit townhome projects on Tennyson Street between 44th and 46th. There has also been significant redevelopment of single family parcels with duplex units along Winona, Vrain, Stuart, and Utica, representing a steady increase in the density of the surrounding neighborhood.

Given that this site has historically contained at least one neighborhood-serving commercial use, is easily accessible from the surrounding residential area, and is located on an arterial street at the edge of the established neighborhood, it is in the public interest to rezone this property in order to support the continuation of mixed-use, walkable neighborhoods.

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

The requested U-MX-2x zone district is within the Urban Neighborhood Context, which is "primarily 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 the Urban House building form. Multi-unit building forms typically include the Row House building form embedded with other residential form types. Commercial buildings are typically the Shop front and General building 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." (DZC, Section 5.1.1). The current zone district, U-SU-C1, is also within the Urban Neighborhood Context.

According to the residential district intent stated in the Denver Zoning Code, "Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's 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" (Section 5.2.3.1).

Section 5.2.3.2.B of the DZC states: “U-MX-2x applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood. These are typically one or two parcels and are limited to low scale building forms and low intensity uses.” The proposed rezoning is consistent with the zoning district intent in that the subject property is embedded within an existing neighborhood, contains an existing low-scale building with low-intensity residential and commercial uses, and is served by both a local street and a residential collector. Further, the proposed rezoning is consistent with the neighborhood context description in that it would allow for the continuation of small-scale multi-unit residential uses and commercial uses embedded in a residential area and located at the intersection of a local street and a residential arterial.

Attachments

1. Rezoning application
2. Public Comments

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		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p>*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.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>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.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			

REVIEW CRITERIA

<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input type="checkbox"/> 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.</p> <p>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.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input type="checkbox"/> 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.</p> <p>Please provide an attachment describing how the above criterion is met.</p>

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)
- Individual Authorization to Sign on Behalf of a Corporate Entity

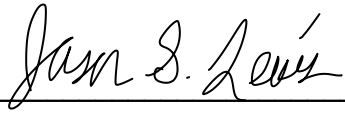
Please list any additional attachments:

White Fence Properties Authorized Agents

January 28, 2018

RE: 5124-5136 W 41st Ave Denver CO 80212

I, Jason S. Lewis, sole proprietor of White Fence Properties (WFP), authorize Jack Ordway to act as my agent/representative on behalf of WFP as it pertains to any rezoning requests for the above property(s).



Jason S. Lewis

2/1/18

Date



For this Record...

- Filing history and documents
- Get a certificate of good standing
- File a form
- Subscribe to email notification
- Unsubscribe from email notification

Summary

- Business Home
- Business Information
- Business Search

- FAQs, Glossary and Information

Details			
Name	White Fence Properties LLC		
Status	Good Standing	Formation date	01/23/2013
ID number	20131048883	Form	Limited Liability Company
Periodic report month	January	Jurisdiction	Colorado
Principal office street address	5037 W. 38th Ave., Denver, CO 80212, CO, United States		
Principal office mailing address	P.O. Box 12157, Denver, CO 80212, United States		

Registered Agent	
Name	Jason S Lewis
Street address	5037 W. 38th Ave., Denver, CO 80212, United States
Mailing address	P.O. Box 12157, Denver, CO 80212, United States

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WARRANTY DEED

THIS DEED is dated the 12th day of October, 2017, and is made between

5124W41 LLC, a Colorado limited liability company
(whether one, or more than one), the "Grantor" of the County of and
State of and

White Fence Properties LLC, a Colorado limited liability company
(whether one, or more than one) the "Grantee", whose legal address
is 5037 W. 38th Ave, P.O. Box 12157, Denver, CO 80212 of the
County of and State of

WITNESS, that the Grantor, for and in consideration of the sum of (\$700,000.00) Seven Hundred Thousand Dollars and No Cents, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs and assigns forever, all the real property together with any improvements thereon, located in the City and County of Denver and State of Colorado described as follows:

The West 81.2 feet of Lots 1, 2 and 3 and the West 81.2 feet of the North 1/2 of Lot 4, Block 12,
Blocks 1 to 40 both inclusive, Berkeley,
except the rear or Easterly 8 feet thereof,

City and County of Denver,
State of Colorado

also known by street and number as: 5124 - 5136 West 41st Avenue, Denver, CO 80212

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, the reversions, 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 and the Grantee's heirs and assigns forever.


The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant, grant, bargain, and agree to and with the Grantee, and the Grantee's heirs and assigns, that at the time of the ensembling and delivery of these presents, the Grantor is well seized of the premises above described; 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 former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except and subject to:

general taxes for the year 20* and subsequent years; and those specific exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Grantee(s) in accordance with Section 8 (Title Insurance, Record Title and off-record title) of the Contract to Buy and Sell Real Estate relating to the above described property; distribution utility easements (including cable TV); those specifically described rights of third parties not shown by the public records of which Grantee has actual knowledge and which were accepted by Grantee(s) in accordance with Section 8 and Section 9 (Survey Review) of the Contract to Buy and Sell Real Estate relating to the above described real property, inclusion of the property within any special tax district; and, the benefit and burdens of any declaration and party wall agreements, if any

And the Grantor shall and will WARRANT AND FOREVER DEFEND the above described premises, in the quiet and peaceable possession of the Grantee, and the heirs and assigns of the Grantee, against all and every person or persons lawfully claiming the whole or any part thereof.

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

5124W41 LLC, A COLORADO LIMITED LIABILITY
COMPANY



Phillip R. Barru
Manager

State of Colorado
County of Jefferson



The foregoing instrument was acknowledged before me this ~~12th~~ day of October, 2017 by Philip R. Barru as Manager of 5124W41 LLC, a Colorado limited liability company.

Witness my hand and official seal.

Notary Public: Shellee Bosworth
My commission expires: May 15, 2021

SHELLEE BOSWORTH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134027385
My Commission Expires May 15, 2021

The West 81.2 feet of Lots 1, 2 and 3 and the West 81.2 feet of the North $\frac{1}{2}$ of Lot 4,
Block 12,
Blocks 1 to 40 both inclusive, Berkeley,
except the rear or Easterly 8 feet thereof,

City and County of Denver,
State of Colorado

also know by street and numbers as: 5124-5136 West 41st Ave, Denver, CO 80212.

5124 W 41ST AVE

Owner	WHITE FENCE PROPERTIES LLC 5037 W 38TH AVE DENVER , CO 80212-2027
Schedule Number	0219324041000
Legal Description	BERKELEY B12 W 81.2FT OF L1-3 & W 81.2FT OF N/2 OF L4
Property Type	COMMERCIAL - MIX USE
Tax District	DENV

Property Description			
Style:	OTHER	Building Sqr. Foot:	1055
Bedrooms:		Baths Full/Half:	0/0
Effective Year Built:	1906	Basement/Finish:	0/0
Lot Size:	7,108	Zoned As:	U-SU-C1

Note: Valuation zoning may be different from City's new zoning code.

Current Year			
Actual	Assessed	Exempt	
Land			\$0
Improvements	\$494,700	\$13,780	\$508,480
Total	\$595,600	\$80,200	\$675,800

Prior Year			
Actual	Assessed	Exempt	
Land			\$0
Improvements	\$448,500	\$9,540	\$458,040
Total	\$515,700	\$67,290	\$582,990

Real Estates Property Taxes for current tax year			
Please click on additional information below to check for any delinquencies on this property/schedule number and for tax sale information.			
	Installment 1 (Feb 28)	Installment 2 (Jun 15)	Full Payment (Due Apr 30)

Feb 29 in Leap Years)

Date Paid

Original Tax Levy	\$3,093.08	\$3,093.07	\$6,186.15
Liens/Fees	\$0.00	\$0.00	\$0.00
Interest	\$0.00	\$0.00	\$0.00
Paid	\$0.00	\$0.00	\$0.00
Due	\$3,093.08	\$3,093.07	\$6,186.15

Additional Information

Note: If "Y" is shown below, there is a special situation pertaining to this parcel. For additional information about this, click on the name to take you to an explanation.

Additional Assessment ⓘ	N	Prior Year Delinquency ⓘ	N
Additional Owner(s) ⓘ	N	Scheduled to be Paid by Mortgage Company ⓘ	N
Adjustments ⓘ	N	Sewer/Storm Drainage Liens ⓘ	N
Local Improvement Assessment ⓘ	N	Tax Lien Sale ⓘ	N
Maintenance District ⓘ	N	Treasurer's Deed ⓘ	N
Pending Local Improvement ⓘ	N		

Real estate property taxes paid for prior tax year: **\$5,487.30**

Assessed Value for the current tax year

Assessed Land	\$13,780.00	Assessed Improvements	\$66,420.00
Exemption	\$0.00	Total Assessed Value	\$80,200.00



WELLINGTON E. WEBS
Mayor

CITY AND COUNTY OF DENVER

COMMUNITY PLANNING
AND DEVELOPMENT AGENCY

200 West 14th Avenue
Denver, Colorado 80204-2715
Phone 303-640-2736 • Fax 303-572-4636
TTD 303-640-2549 • www.denvergov.org

January 13, 2000

Shean Gaffari
Re/Max Southeast, Inc.
8821 East Hampden Avenue, Suite 110
Denver, CO 80231

RE: 5124-5136 West 41st Avenue Legal: West 81.2 feet of Lots 1-3 inclusive & West
81.2 feet of North ½ Lot 4, Blk 12, Berkeley

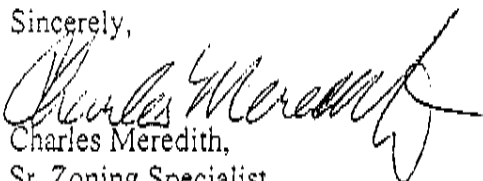
Dear Mr. Gaffari:

The referenced property in the City and County of Denver is located in the R-2 zone district. The structure on the property has contained four units addressed 5124, 28, 32, & 36 West 41st Avenue. These units had originally contained nonconforming business uses registered in 1956. As of this date, the uses in three of the units, 5124, 5128 & 5132, have been changed to residential dwelling units, which are conforming uses in the R-2 district. No use permits have been submitted for these changes of use. The unit addressed at 5136 still contains a retail variety store as approved by use permits in 1993 and 1988 and may continue to operate as a nonconforming use, as limited by Section 59-631 Denver Revised Municipal Code (DRMC) that regulates nonconforming uses.

Section 59-631(d)(3) DRMC states *changing a nonconforming use to a conforming use... shall terminate immediately the right to operate a nonconforming use.* I have enclosed a copy of this cited code section. The conversion to dwelling units has thereby terminated the nonconforming use rights for business uses in the three units noted above.

Please contact me at 303.640.1562 with any further question regarding this property.

Sincerely,


Charles Meredith,
Sr. Zoning Specialist

cc: Philip J. McGinn
375 Depew Street
Lakewood, CO 80226

January 2018
Updated April 2018

City of Denver Zoning Dept.

RE: 5124-5136 W. 41st Ave Denver CO 80212

To Whom It May Concern,

Please consider the following with regard to the Re-zoning application for the above mentioned address.

Comprehensive Plan 2000

The proposed map amendment for 5124-5136 W 41st Ave is consistent with the following specific goals and strategies of the Denver Comprehensive Plan 2000.

ENVIRONMENT

Living patterns

Residents will be able to live more self-sufficient lives within their neighborhoods due to increased use of telecommuting policies and technology, expanded home-based employment, and a **greater variety of commercial** and recreational activity within neighborhoods.

Transportation

Citizens will drive less, choosing from a greater variety of low-impact modes of transportation that effectively connect people from place to place and from one mode of transportation to another.

Strategy 2B

Reducing vehicular pollution by expanding the use of transit and other travel alternatives, supporting telecommuting and home-based employment, **increasing the mix of uses within neighborhoods**, and expanding the use of alternative fuels.

Strategy 2E

Promoting efforts to **adapt existing buildings for new uses**, rather than destroying them.

Strategy 2F

Designing **mixed-use communities** and reducing sprawl, **so that residents can live, work and play within their own neighborhoods**.

Creating more density at transit nodes.

Strategy 4A

Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are **accessible by multiple forms of transportation, providing opportunities for people to live where they work.**

LAND USE

Range of housing

Denver faces a shortage of housing that covers the full range of housing prices and types. Land-use policies must allow for increased availability, broader distribution and an expanded variety of housing options

Strategy 1D

Recognize the multiple transportation functions of **arterial corridors**, as well as their importance for commercial activity and projecting the city's image.

Strategy 3B

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.

Strategy 4A

Encourage mixed-use, transit-oriented development that makes effective use of **existing transportation infrastructure**, supports transit stations, increases transit patronage, reduces impact on the environment, and encourages vibrant urban centers and neighborhoods

Strategy 4B

Ensure that land-use policies and decisions support a variety of mobility choices, including light rail, buses, paratransit, walking and bicycling, as well as convenient access for people with disabilities.

MOBILITY

Mixed-use neighborhoods

Some of Denver's historic neighborhoods are mixed use, with small commercial nodes dotting residential development. The City has had considerable reinvestment as families find advantage in neighborhoods with retail and services close to home.

Strategy 4E

Continue to promote mixed-use development, which enables people to live near work, retail and services.

LEGACY

Neighborhood character

The increasing need for a broader array of housing options requires a more diverse mix of residential types that are both affordable and complementary to neighborhood character.

Density and diversity

Exciting new mixed-use and pedestrian-oriented areas will develop, offering a higher concentration of housing, retail, services, employment and transportation, all within walking distance.

Strategy 2A

Establish development standards to encourage positive change and diversity while protecting Denver's traditional character.

Strategy 3A

Identify areas in which increased density and new uses are desirable and can be accommodated.

HOUSING

Housing and economic development

For Denver to retain and attract businesses and workers, the City must offer an ample supply and a wide variety of housing types for people of all incomes.

Mixed-use, mixed-income neighborhoods

Several neighborhoods provide opportunities for a stimulating urban lifestyle in walkable communities offering a variety of uses, multiple housing options and diverse residents.

Objective #2

Encourage preservation and modernization of Denver's existing housing stock

Objective #6

Encourage mixed-use, mixed-income housing development in Denver's core area and along transit lines.

ECONOMIC ACTIVITY

Thriving neighborhood business centers

Denver's neighborhoods will be enlivened by successful retail, service and hospitality businesses that enable residents to enjoy a high quality of life close to home.

Strategy 5A

Support small-scale economic development in neighborhoods using the following key strategies:
Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas.

NEIGHBORHOOD

Mixed uses

Business development is in harmony with neighborhood character. Many neighborhoods feature a diverse combination of easily accessible retail, service and entertainment businesses; employment opportunities; and home-based businesses.

Strategy 1C

Strengthen the sense of place in each neighborhood with adequate and well-designed, public-realm facilities such as branch libraries, recreation centers, fire stations, **neighborhood businesses and retail areas**. Continue City support for public art and historic preservation as a focus for neighborhood identity and pride.

Strategy 1E

Modify land-use regulations to ensure flexibility to accommodate changing demographics and lifestyles. Allow, and in some places encourage, a diverse mix of housing types and affordable units, essential services, recreation, business and employment, home-based businesses, schools, transportation and open space networks.

METROPOLITAN COOPERATION

Strategy 2D

Ensure that development provides for mixed uses, allowing people of all income levels the opportunity to find housing near their jobs or find jobs near their homes.

BLUEPRINT DENVER

According to Blueprint Denver, this site has a concept land use of Single Family Residential and is located within an Area of Stability.

Although this site is not located in an area of change it is located in very close proximity to the area of change designated for 38th Ave near Sheridan Blvd. Since the subject property is on the corner of Sheridan Blvd, an arterial street, it would make sense to have this mixed use property as the buffer from the more residential nature of the neighborhood to the east and the more commercial side of Sheridan corridor. Furthermore, since no redevelopment is being proposed, simply a change in zoning to match the current use of property a map amendment seems even more appropriate given the current commercial nature of Sheridan Blvd.

Map amendments

In some cases it may be appropriate to change the zoning in an area to create a better match between existing land uses and the zoning

Since this site has been permitted to continue use as a mixed use property it would only be fitting for the zoning to be changed in order to appropriately reflect the use of the building. The

proposed map amendment is consistent with the goals and guidelines laid out in Blueprint Denver.

UNIFORMITY OF DISTRICT REGULATIONS

The proposed rezoning to U-MX-2x would result in the uniform application of zone district building form, use and design regulations within the Urban Neighborhood context.

PUBLIC HEALTH, SAFETY AND GENERAL WELFARE

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through the implementation of the City's adopted plans for land use, including Blueprint Denver and Comprehensive plan 2000. The rezoning would allow the historically retail corner of W 41st Ave and Sheridan Blvd to remain retail, with the additional units to remain residential as the building transitions to the east and the more residential part of the neighborhood. The proposed rezoning from U-SU-C1 to U-MX-2X would allow for the zoning to accurately represent the current use of the structure.

JUSTIFYING CIRCUMSTANCES

DZC Section 12.4.10.8.A.4

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.

There has been and continues to be more redevelopment in the Berkeley neighborhood within only a short walk from this property. The passing of this proposed map amendment would allow for a small neighborhood business to continue to operate and provide needed commercial services to the increasing neighborhood population.

Projects under construction within only a few blocks include the 39 units at 5000 W 38th Ave. and multi-unit townhome projects on Tennyson Street between 44th and 46th. Not to mention all the completed duplexes that now line, Winona, Vrain, Stuart, and Utica—significantly increasing the density of the neighborhood.

Additionally, there are U-Mx properties already located to the north along 44th and Sheridan and to the south along 38th and Sheridan. It would be logical to grant this property U-Mx-2x to match the current use of the building and to match the zoning of similar properties as the buffer between Sheridan Blvd and the Berkeley neighborhood.

CONSISTENCY WITH NEIGHBORHOOD CONTEXT DESCRIPTION, ZONE DISTRICT PURPOSE AND INTENT STATEMENTS

The requested U-MX-2x zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses with embedded small-scale multiunit residential and commercial areas (DZC, Division 5.1). The current zone district, U-SU-C1, is also within the Urban Neighborhood Context but does not accurately represent the permitted and continued use of the property (see attached letter from Denver CPD dated 2000).

The U-MX-2x district applies to “Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas...Commercial buildings are typically the Shop front and General building forms that may contain a mixture of uses within the same building...Commercial uses are primarily located along mixed-use arterial or main streets but may be located at or between intersections of local streets.”

Both the existing building form and the location of the property conform to the above description from 5.1.1 of DZC. The subject property is located on the corner of an arterial and local street. The existing low-scale and low density build form complies with the allowed structures under U-MX-2x.

ADDITIONAL CRITERIA TO CONSIDER

5.2.2

The intent of the Residential districts is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context. These regulations allow for some **multi-unit districts**, but not to such an extent as to detract from the overall image and character of the residential neighborhood.

5.2.3.1 General Purpose

A. The Mixed Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of town house, row house, **apartment, and general building forms** that clearly define and activate the public street edge.

Once 4 retail store fronts in the 1950s, three have since been converted to residential. The corner, 5136, still remains a thriving retail store for the neighborhood. The other 3 units provide necessary housing for Berkeley residents and this use is currently conforming under a letter from Denver CPD dated 2000.

B. The Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.

The one story building form fits into the neighboring residential dwellings and is in close proximity to other U-MX zoned properties to the north and south along Sheridan Blvd.

C. 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 existing building form transitions nicely from the retail store to the residential units. No new development is being pursued at this time. The re-zone is only being requested in hopes of having the zoning properly match the ongoing use of the current building.

D. Compared to the Main Street districts, the Mixed Use districts are focused on creating mixed, diverse neighborhoods. The Mixed Use districts are intended for corridors, **embedded neighborhood business areas** and larger sites.

The existing structure follows this criteria already being an embedded neighborhood business.

E. In the Urban Neighborhood Context, the Mixed Use zone districts promote a pedestrian-active street front. **Buildings are pulled up to the street with parking at the side or rear of the building;** however, the front setback range is deeper than the front setback range for the Main Street districts. The required percentage of building facade that must be located in the front setback area is less than the percentage for the Main Street districts.

The structure also follows this criteria with larger sidewalks on both frontages and off street parking in the rear of the building.

5.2.3.2

Specific Intent Mixed Use - 2x (U-MX-2x)

U-MX-2x applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood.

These are typically one or two parcels and are limited to low scale building forms and low intensity uses.

This property is served by local streets embedded within the Berkeley neighborhood, is only one parcel, one story and low intensity.

Section 11.2.3 DWELLING, MULTI-UNIT 11.2.3.1

All SU and TU Zone Districts In all SU and TU zone districts, where permitted with limitations:

A. Multi-Unit Dwelling uses that were legally established and Continuously Maintained on a zone lot shall be considered conforming uses in these districts.

Berkeley Regis United Neighbors, Inc
4113 Quitman St, Denver CO 80212
BerkeleyRegisNeighbors.org



July 30, 2018

Joel Noble
Chairperson
Planning Board
City and County of Denver
201 West Colfax Avenue, Department 201
Denver CO 80202

Re: 4124-4136 W 41st Ave Rezoning 2017I-00171

To the Denver Planning Board:

Berkeley Regis United Neighbors ("BRUN") is a registered neighborhood organization with the city of Denver. The RNO's boundaries are Federal Blvd to the east, Sheridan Blvd to the west, 38th Ave to the south, and 52nd Ave to the north. Membership is available to households and businesses within BRUN's boundaries. BRUN currently has at least 290 members, a list of 800 contacts and 1,088 followers on Facebook. Information is shared with the neighborhood regularly through email blasts and postings on various forms of social media as well as our website including notices of upcoming meetings and summaries of those past. General meetings with the BRUN Board are held monthly and are open to the public.

The BRUN Zoning Committee has sought and received input from the neighborhood on several public occasions over the past few years. These include in-depth surveys at a large extensively publicized meeting in May of 2014 as well as our Annual Membership Meetings in February of 2015 and February of 2016. These surveys included considerable feedback regarding neighbor's feelings about construction within our boundaries, in both residential and commercial zone districts.

Regarding residential construction, neighbors have consistently voiced the following desires:

- To encourage eyes on the street, neighborly interaction, and a positive pedestrian experience
- That new constructions are of a maximum 2-1/2-story appearance
- To protect solar access to neighboring existing properties
- To protect backyard privacy
- To encourage the planting of street trees in residential neighborhoods.
- To preserve existing homes when possible

Regarding commercial construction, neighbors have consistently voiced the following desires:

- To encourage pedestrian interest and activity at street level
- To increase ground floor transparency along the street
- To maintain 3- and 5- story building scale
- To respect and preserve properties with historical significance
- To be sensitive to residential parking needs

Our starting point for analysis of development applications comes from the belief that the interest of our

neighborhood is best served when all neighbors are subject to a consistent set of rules, and that that set of rules is outlined in the Denver Zoning Code.

On July 23rd, the BRUN Zoning Committee convened a public meeting. On the agenda of this meeting was discussion of the rezoning application for 5124, 5128, 5132 and 5136 W 41st Ave. At this meeting, the Committee voted unanimously to advise that BRUN oppose this rezoning application. The committee's advice was then presented to the BRUN Board of Directors who voted electronically with 9 in favor, none opposed, on July 30th, 2018, to issue the following position statement objecting to the application:

We believe that “upzoning” of properties can create pressures on our neighborhood by impacting our infrastructure, parking needs, and availability of affordable housing. While there can be benefits as well, we do not feel at this time that a change is necessary at this particular location.

In a letter to BRUN on February 21st, the applicant wrote:

“We are submitting an application to have the property rezoned to U-MX-2x so that the zoning will properly match the current use of the building. We do not have any intentions to change the existing structure or its current use, we are simply requesting the zoning match the existing use for bank financing purposes.”

As the current use is predominantly residential with one commercial unit and all units have been formally designated by the City to be allowed to be used for these purposes, we see no reason that a rezoning would be necessary if the owner has no intentions to change the existing structure.

We hope that if there is to be a rezoning at this property or any other, it will come with specific plans that we could provide feedback on and have a larger and more detailed conversation at that time.

Thank you for the opportunity to provide input on this application.

Best Regards,

Michelle Frankel
Chair, Zoning Committee
Berkeley Regis United Neighbors

CC:

Denver Planning Board
Denver Community Planning and Development, Planning Services
Kyle Dalton, CPD Principal City Planner
Chandler Van Schaack, CPD Senior City Planner
Sara White, CPD Senior City Planner
Sarah Showatler, CPD Manager
Jason Lewis, White Fence Properties (applicant)

Jack Ordway (applicant's representative)
Rafael Espinoza, Denver District 1 Councilman
Amanda Sandoval, Council Aide
Robin Kniech, Denver Councilwoman At Large
Deborah Ortega, Denver Councilwoman At Large

George E Mayl, Inter-Neighborhood Cooperation President
Leanne Kerber, BRUN President
Berkeley Regis United Neighbors Board of Directors