



TO: City Council
FROM: Theresa Lucero, Senior City Planner
DATE: December 29, 2011
RE: Zoning Map Amendment Application #2011I-00049
4239 Tejon Street
Rezoning from U-MS-2 to U-TU-C

Staff Report and Recommendation

Based on the criteria for review including legal basis evaluation and compliance with adopted City plans, Staff recommends **approval** for application #2011I-00049 for a rezoning from U-MS-2 to U-TU-C.

I. Scope of Rezoning

Application:	#2011I-00049
Address:	4239 Tejon Street
Neighborhood/Council District:	Sunnyside / Council District #9
RNOs:	Sunnyside United Neighbors Northwest Neighbors Coalition Northwest Quadrant Association Inter-neighborhood Cooperation
Area of Property:	0.11 Acres / 5,075 SF
Current Zoning:	U-MS-2
Proposed Zoning:	U-TU-C
Applicant/Owner:	Owners, Keith Hagan and Susan Kang
Contact Person:	Susan Kang

II. Summary of Proposal and Existing Conditions

Proposal

This proposal would rezone the subject property from Urban Mainstreet, Two-Stories (U-MS-2) to Urban, Two Unit, with a minimum lot area of 5,500 square feet (U-TU-C). No change is proposed to the existing land use, the existing residential structure, or to the zone lot. The intent of the rezoning is to remove the property from a commercial zone district, and place it in the same residential zone district that exists adjacent to the subject property on the same block face. This would acknowledge the property's existing and historic residential land use and residential building form (commercial land uses have never existed on the property). The existing structure was built in 1891 and was rezoned from R-2 to B-2 in 1956.

Existing Conditions

The subject property is located on Tejon Street, mid-block between 42nd and 43rd Avenues. In the vicinity of the subject property, one block west, is Smedley Elementary School and 1/2 block north is Chaffee Park. The subject property is surrounded by residential land uses with single-unit residential buildings on the east, south and west. Immediately north of the subject property

is a vacant property and a low-rise multi-unit residential structure. The local block pattern consists primarily of rectilinear blocks with a traditional grid pattern of streets and alleys, and with detached sidewalks and tree lawns.

III. Legal Justification for Rezoning

Changed Conditions

Rezoning to U-TU-C will affirm the 55-year residential land use of the property by taking the property from a commercial zone district to the same residential zone applied to the majority of the same block. The 1956 zoning of the property from R-2 to B-2 did not result in commercial development or change of use. Rezoning to U-TU-C would result in the subject property enjoying the same zoning benefits as its residential neighbors to the north, east and west, including the protections afforded to property in a "Protected Zone District" under the Denver Zoning Code (e.g., protective setback and bulk standards applicable to adjacent nonresidential development).



IV. Existing Context

	Existing Zoning	Existing Land Use	Blueprint Denver
Site	U-MS-2	Single Family Residential	Area of Stability Single Family Residential
North	U-TU-C	Vacant and Low-rise Multi-unit	Area of Stability Single Family Residential
South	U-MS-2	Single Family Residential	Area of Stability Single Family Residential
West	U-TU-C	Single Family and Low-rise Multi-unit Residential	Area of Stability Single Family Residential
East	U-TU-C	Single Family Residential	Area of Stability Single Family Residential



Tejon Street Property North of the Subject Property



Tejon Street Property South of the Subject Property



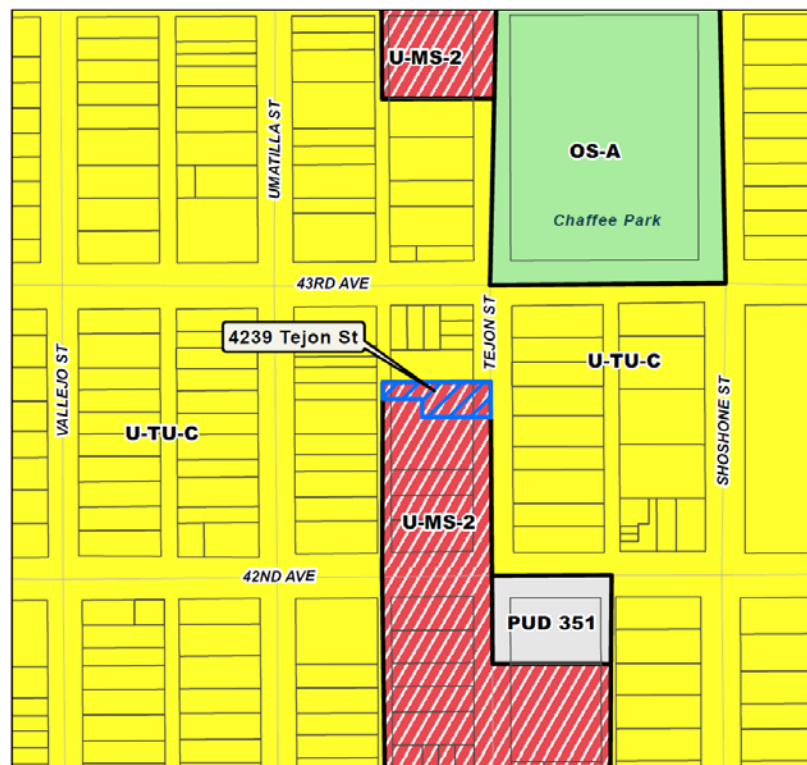
Subject Property



Tejon Street Property East of the Subject Property



Umatilla Street Property West of the Subject Property



V. Summary of Legal Notice and Public Process

Planning Board

Written notification of the Planning Board Meeting was sent to all affected Registered Neighborhood Associations and notification signs were posted on the property fifteen days prior to the November 16, 2011, meeting. By a vote of six to two Planning Board recommended denial of the proposed rezoning, citing in their motion a failure to find changed conditions as a justifying circumstance and the fact that the subject zone lot (5,075 SF) is smaller than the minimum zone lot area required in the U-TU-C zone district (5,500 SF).

Land Use, Transportation and Infrastructure Committee

Electronic notification of the Committee meeting was sent to all affected Registered Neighborhood Associations ten days prior to the November 22, 2011 meeting.

City Council

The property has been legally posted for a period of 21 days announcing the City Council Public Hearing, and electronic notification of the hearing has been sent to all affected registered neighborhood associations.

VI. Summary of Agency Referral Responses

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

Asset Management:

Approve, No Comments

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

VII. Community Response

The applicant contacted all affected Registered Neighborhood Associations. The Sunnyside Neighborhood Association heard a presentation by the applicant on November 7, 2011. At that meeting the adjoining neighbor to the south attended and spoke in opposition to the rezoning. The Planning and Community Development Committee of the Sunnyside Neighborhood Association voted to take a neutral position and sent a letter to CPD to that effect. The Sunnyside letter is attached.

The applicant collected 32 signatures of support from nearby neighbors and they are attached with a map showing the location of the properties where signatures were gathered. To date, no other comment has been received from the community.

VIII. Criteria for Review

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

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver*
- *Sunnyside Neighborhood Plan (1992, Re-adopted 2000)*
- *Denver Zoning Code*

A. Denver Comprehensive Plan 2000

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

- Land Use chapter, Objective 3 is to “*Preserve and enhance the individuality, diversity and livability of Denver’s neighborhoods and expand the vitality of Denver’s business centers.*” (p.59).
- Housing chapter, Objective 2 is to “*Encourage preservation and modernization of Denver’s existing housing stock and established neighborhoods...*” (p.114).
- Neighborhoods chapter, Objective 1 is to “*Strengthen the positive attributes and distinctive character of each neighborhood to help sustain Denver as a healthy, vital city.*” (p. 149)

B. Blueprint Denver

Blueprint Denver, the City's Land Use and Transportation Plan, identifies the property as being within an Area of Stability with a land use recommendation of Single Family Residential. The Blueprint Denver street type for Tejon Street is Residential Collector.

The U-TU-C zone district will change the zoning of the existing residential structure from a commercial zone district to the same zone districts applicable to adjacent residential uses and structures on the same block. In addition, the existing structure on the subject property is similar in scale, mass, and height (form) with other existing residential structures in the neighborhood.



C. Sunnyside Neighborhood Plan

The 1992 Sunnyside Neighborhood Plan was re-adopted in 2000 as a supplement to Denver Comprehensive Plan 2000. The proposed rezoning positively addresses Plan goals and strategies in the following ways:

- Land Use and Zoning Goal is to “Maintain and stabilize the residential character of Sunnyside while encouraging small scale shops and offices, particularly in the commercial zones along 44th Avenue and Tejon Street, that will enhance and serve the neighborhood.” (p. 18)
- Land Use Policy LUZ-8 is “Do not allow commercial and industrial expansion into residential zones unless:
 - Physical deterioration exists
 - The housing is non-conforming
 - Speculation and redevelopment have made it impossible to retain the existing character
 - Existing transportation corridors have diminished the demand for residential uses.” (p.20)

- Housing Goal is to *“Stabilize and upgrade the housing stock by encouraging long term residency and increasing home ownership.”* (p.47)
- Economic Development Strategy ED-4 is to *“Work towards a goal of concentrated commercial nodes, rather than scattered site development...”*(p.52)

Existing commercial uses on Tejon Street are concentrated in two locations, between 40th and 42nd Avenues, and at the intersection of 44th Avenue and Tejon Street. The existing Tejon Street land uses on the subject block are exclusively residential land uses on both sides of the street. The U-TU-C zone district will maintain the residential land use of the subject property and the block.

D. Denver Zoning Code

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

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

As proposed, rezoning #2011I-00049 is consistent with the general review criteria outlined in this section of the Denver Zoning Code including:

- A. Consistency with Adopted Plans:** Rezoning #2011I-00049 implements and is consistent with recommendations in adopted plans.
- B. Uniformity of District Regulations and Restrictions:** Rezoning the site to U-TU-C will have no effect on the uniformity of district regulations.
- C. Public Health, Safety and General Welfare:** The proposed map amendment furthers the public health, safety and general welfare of the City.

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

A. Justifying Circumstances – Change in Conditions

The Denver Zoning Code states that a rezoning may be justified if the subject property or its surrounding environs has changed to such a degree that it is in the public interest to encourage a redevelopment of the area, or to recognize the changed character of the area. The proposed map amendment, in response to the existing and historic residential character of the area, recognizes that the commercial development and character anticipated by the 1956 B-2 zoning of the property has never been realized, and that the existing and historic residential character should be recognized through a change to residential zoning. The proposed U-TU-C zone district will bring the property into the same residential zone district as exists north and east on the block and will recognize the historic and existing residential land use and character of the block and surrounding area.

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

The Denver Zoning Code states that the proposed rezoning must be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and

intent of the proposed zone district. Overall, the proposed rezoning is consistent with the Urban Neighborhood Context that exists in the subject area. The area has primarily single-unit, two-unit and small-scale multi-unit residential uses, together with small-scale, mixed use commercial areas. The latter commercial areas are pedestrian-scaled and typically embedded within the larger residential areas. Single and two-unit residential uses are typically located along local and residential collector and arterial streets. The subject single-unit residential use is located on a residential collector street (Tejon). In addition, the proposal is consistent with the purpose of residential zone districts, which is to promote and protect residential neighborhoods, and with the intent of the U-TU-C zone district where a building scale of 1-2.5 stories is desired (the existing residential structure is 2.5 stories tall).

More specific to the subject property, while the zone lot does not meet the U-TU-C District's minimum area requirement of 5,500 square feet for the creation of new zone lots, the subject property does meet the U-TU-C minimum lot width standard of fifty feet. The property is consistent with the Urban Context description and the purpose and intent of U-TU-C zone district, which is small-scale residential uses mixed with commercial land uses embedded within the larger residential area. Citywide, not all existing zone lots located within the various residential zones comply with minimum lot size requirements. The minimum zone lot size standards are intended to capture the *predominant* lot size patterns in a neighborhood, and it is reasonable to expect (and reality supports) that some zone lots in a zone district may be smaller or larger than the prevailing lot size. These smaller or larger existing zone lots are typically still consistent with the applicable neighborhood context and the overall zone district intent.

In fact, the Denver Zoning Code anticipates and accommodates compatible development on zone lots that do not meet a specific residential zone district's minimum zone lot area standards by:

- (1) Expressly allowing permitted land uses and new construction to occur on such zone lots, provided such development meets all the district's zoning standards *except* minimum lot area and minimum lot width standards (see DZC, Section 12.10.3.2.); and
- (2) Calibrating the zone district's form standards (setback and building/parking coverage) for zone lots smaller or larger than the prevailing lot size in the district. For example, in DZC, Section 5.3.3.4.A, the Urban House form standards in the U-TU-C zone district expressly accommodate new development on existing zone lots with lot widths smaller than 30 feet wide (considerably smaller than the minimum 50-foot zone lot width required for the creation of new zone lots in the U-TU-C District).

IX. Staff Recommendation

Based on the criteria for review and analysis described in this staff report, CPD staff recommends **approval** for rezoning the property located at 4239 Tejon Street (Application #2011I-00049) from U-MS-2 to U-TU-C.

Attachments:

1. Application
2. Map Series – (Aerial, Zoning, Blueprint Map)
3. Letter from Sunnyside United Neighbors, Inc.
4. Map and Signatures of Support



DENVER
THE MILE HIGH CITY

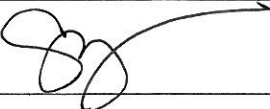
**Community Planning and Development
Planning Services
Plan Implementation**

201 W Colfax Ave, Dept 205
Denver, CO 80202
p: 720-865-2915
f: 720-865-3056
www.denvergov.org/planning

2011I-00049

APPLICATION FOR ZONE MAP AMENDMENT

Application #	2011I-00049	Date Submitted	10.7.2011	Fee Required	1000	Fee Paid	1000
APPLICANT INFORMATION				CONTACT INFORMATION (Same as Applicant?)			
Applicant Name	Keith Hagen			Contact Name	Susan Kang		
Address	4239 Tejon St			Address	same		
City, State, Zip	Denver, CO 80211			City, State, Zip	same		
Telephone / Fax	720-381-8329 /			Telephone / Fax	720-273-8973 /		
Email	khagen@conversioniq.com			Email	ayciakang@msn.com		
Subject Property Location [Please Include Assessor's Parcel Number(s)]							
4239 Tejon St. Denver, CO 80211 Parcel #0221312025000							
Legal Description of Subject Property							
Lot 28 and East 78 feet of Lot 27, Block 5, Van Camp Addition to Denver, City and County of Denver, State of Colorado.							
Area of Subject Property (Acres/Sq Ft)		Present Zone District		Proposed Zone District (Waivers and Conditions Require Separate form)			
0.1165/5,075		U-MS-2		UTUC			
Describe the nature and effect of the proposed Zone Map Amendment							
Nature: To change the current zoning from business to residential. Effect: Enhancing the residential nature of the street							
Select Legal Basis for the Zone Map Amendment and explain in detail				Error in the map as approved by City Council			
				<input type="checkbox"/> Error in the map as approved by City Council <input checked="" type="checkbox"/> Changed or Changing Conditions that make a Zone Map Amendment Necessary			
Rezoning captures and matches the current/existing ground conditions and pattern of land use. It also better aligns and coincides with the future land use vision of Blue Print Denver.							
State the land use and the development proposed for the subject property. Include the time schedule (If any) for development							
Current Land Use: A much loved residential Home. Proposed Development: Maintaining the existing ground conditions.							
Required Exhibits				Additional Exhibits			
Applicant & Owner Information Sheet				<input checked="" type="checkbox"/>			
Maps - Required for Final Submissions				<input type="checkbox"/>			
Case Manager	Theresa Lucero						
Signature							Date

	10.9.11
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APPLICANT & OWNER INFORMATION SHEET

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

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

Application Number	Applicant's Name
2011I-00049	Keith Hagen

Property Address(es)
4239 Tejon St. Denver CO 80211

Applicant's Address
4239 Tejon St. Denver, CO 80211


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

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

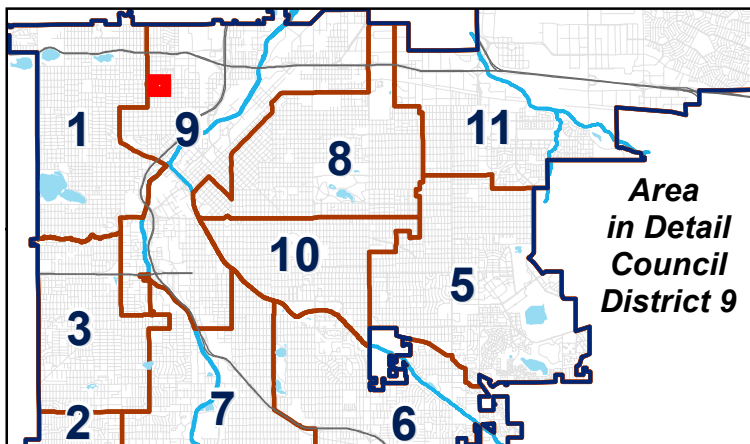
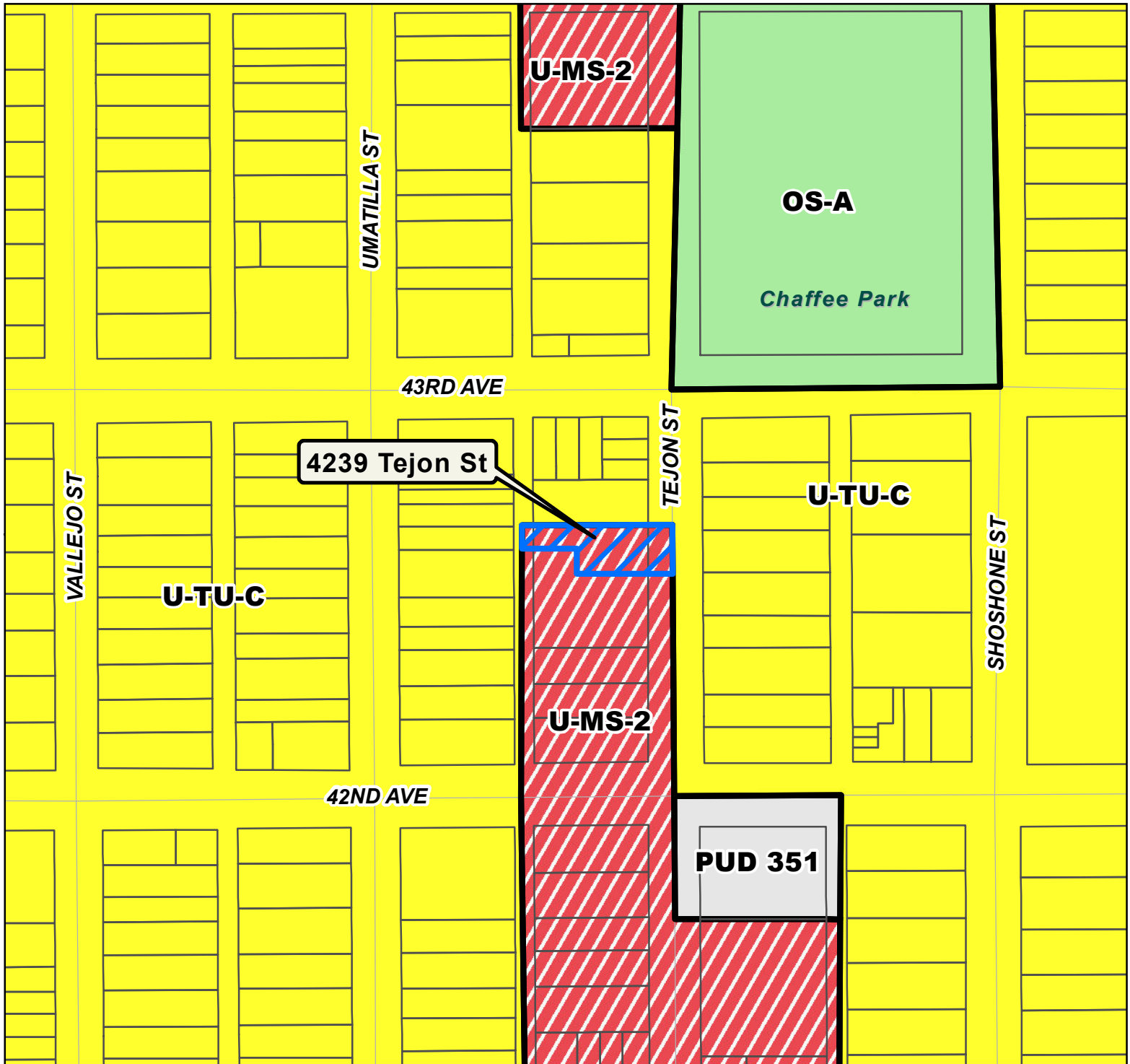
Fee Title Owner (Has Deed of Ownership)	All	<input checked="" type="checkbox"/>
	A Portion	<input type="checkbox"/>
Contract Owner	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>
Holder of a Security Interest	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>

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

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Signature of Applicant	Date Signed
	Oct 9 / 2011

Pending Zone Map Amendment #2011I-00049



Application #2011I-00049

Location: 4239 Tejon St.



Proposed Rezoning
From: U-MS-2
To: U-TU-C

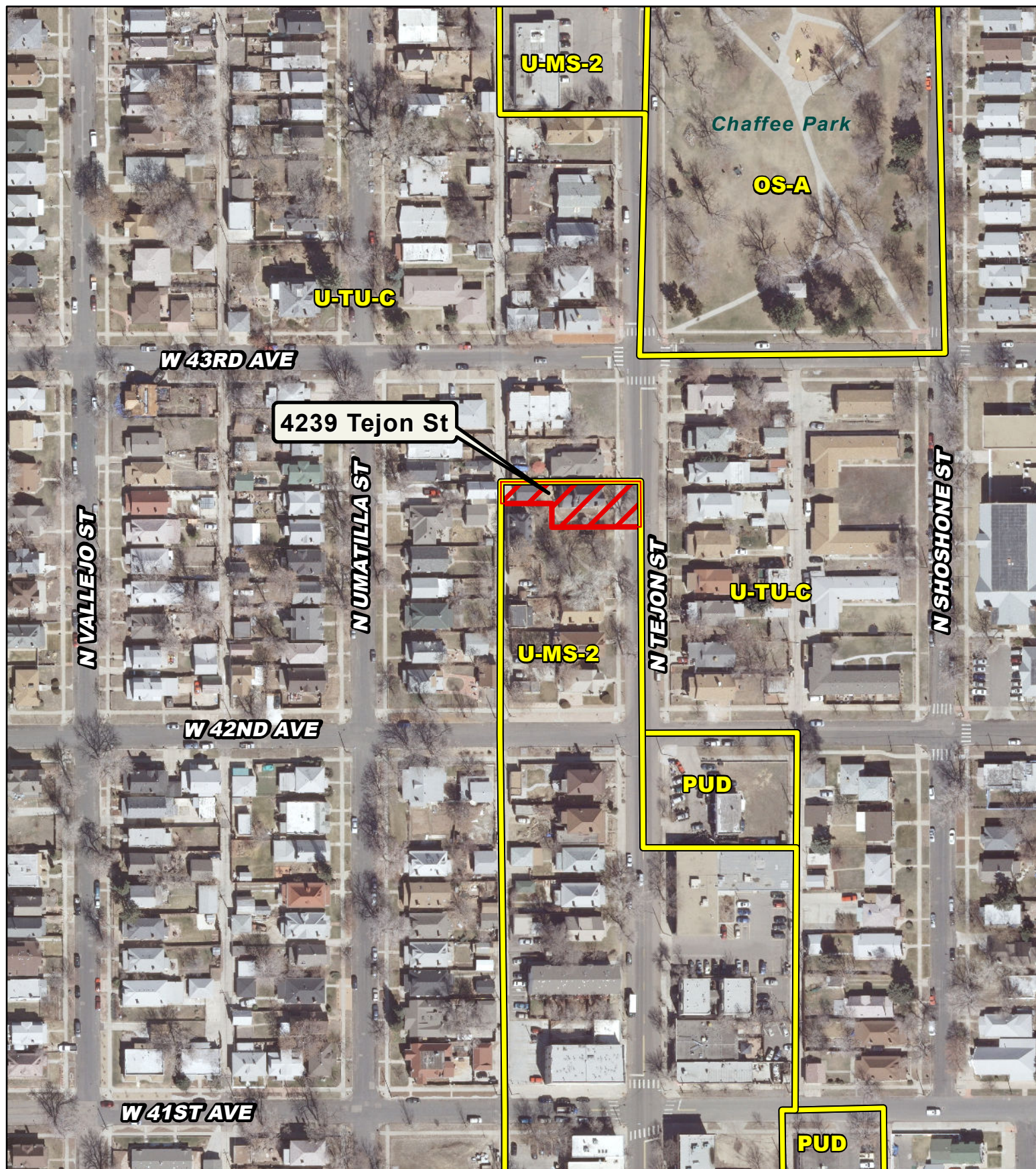


0 100 200 400
Feet

Map Date: 9/22/11

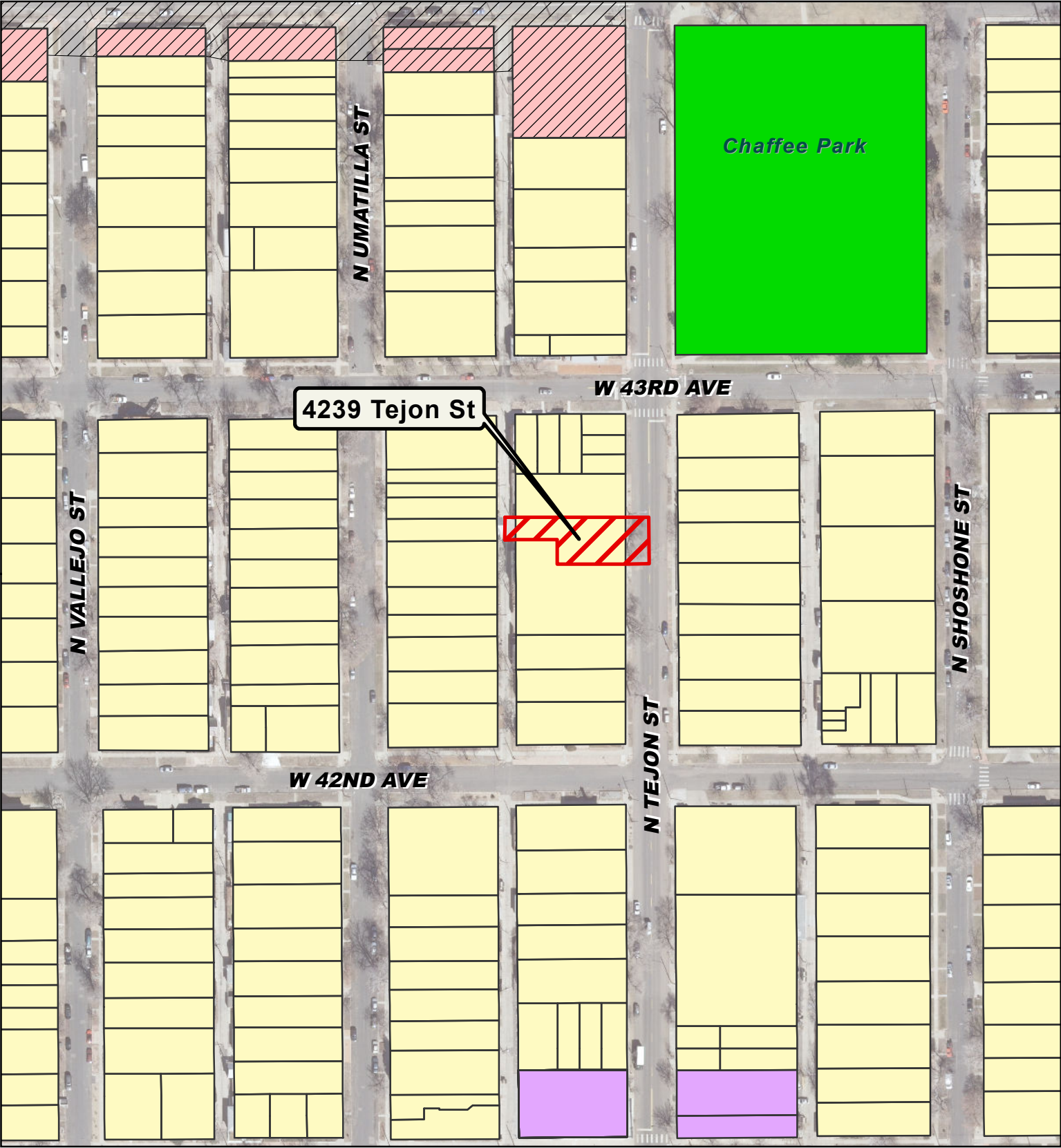
Pending Zone Map Amendment - Aerial & Zoning Overlay


 Application #2011I-00049





Pending Zone Map Amendment - Blueprint Denver Overlay


 Application #2011I-00049





 Single Family Residential

 Pedestrian Shopping Corridor

 Neighborhood Center

 Park

 Area of Change


 Pending Zoning Amendment

0

100

200

400 Feet



Map Date: 10/13/11



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

November 8, 2011

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

Re: Petition to downzone 4239 Tejon Street, App. #2011I-00049

The Sunnyside United Neighbors Inc. (SUNI) Planning and Community Development (PCD) Committee, at its regular meeting on November 7, 2011, heard from homeowners Keith Hagan and Aycia (Susan) Kang relative to their application to rezone their property at 4239 Tejon St. The application requests rezoning from U-MS-2 (Mainstreet 2 stories) to U-TU-C (Two-unit). With the current U-MS-2 zoning on both properties, any potential new development on the southern property would have no side setback requirement. The applicants are seeking U-TU-C because it is their understanding that with the U-TU-C zoning on their property, any new development on the property to the south will be required to have a 10 foot setback because residential is a "Protected Zone District".

One of the owners of the property at 4235 Tejon, Barbara Criswell, was also present at the meeting. Criswell opposes the rezoning because she believes it will lower her property value, and could potentially impede the sale of 4235 Tejon.

The SUNI PCD Committee discussed the concerns stated by both Hagan/Kang and also as stated by Criswell, and found the concerns of both property owners to have merit. The Committee has voted to take a neutral position on the application to downzone 4239 Tejon.

Very sincerely yours,

Stephen Wilson
SUNI President

Janice Stice
PCD Committee Chair

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

The SUNI Planning and Community Development Committee is a standing committee authorized by the SUNI bylaws to act for the Association on matters of zoning, development, and neighborhood planning. The SUNI PCD Committee holds regular monthly public meetings, announced by our website. The present case (e.g., App. #2011I-00049) was discussed at the PCD meeting on November 7, 2011.

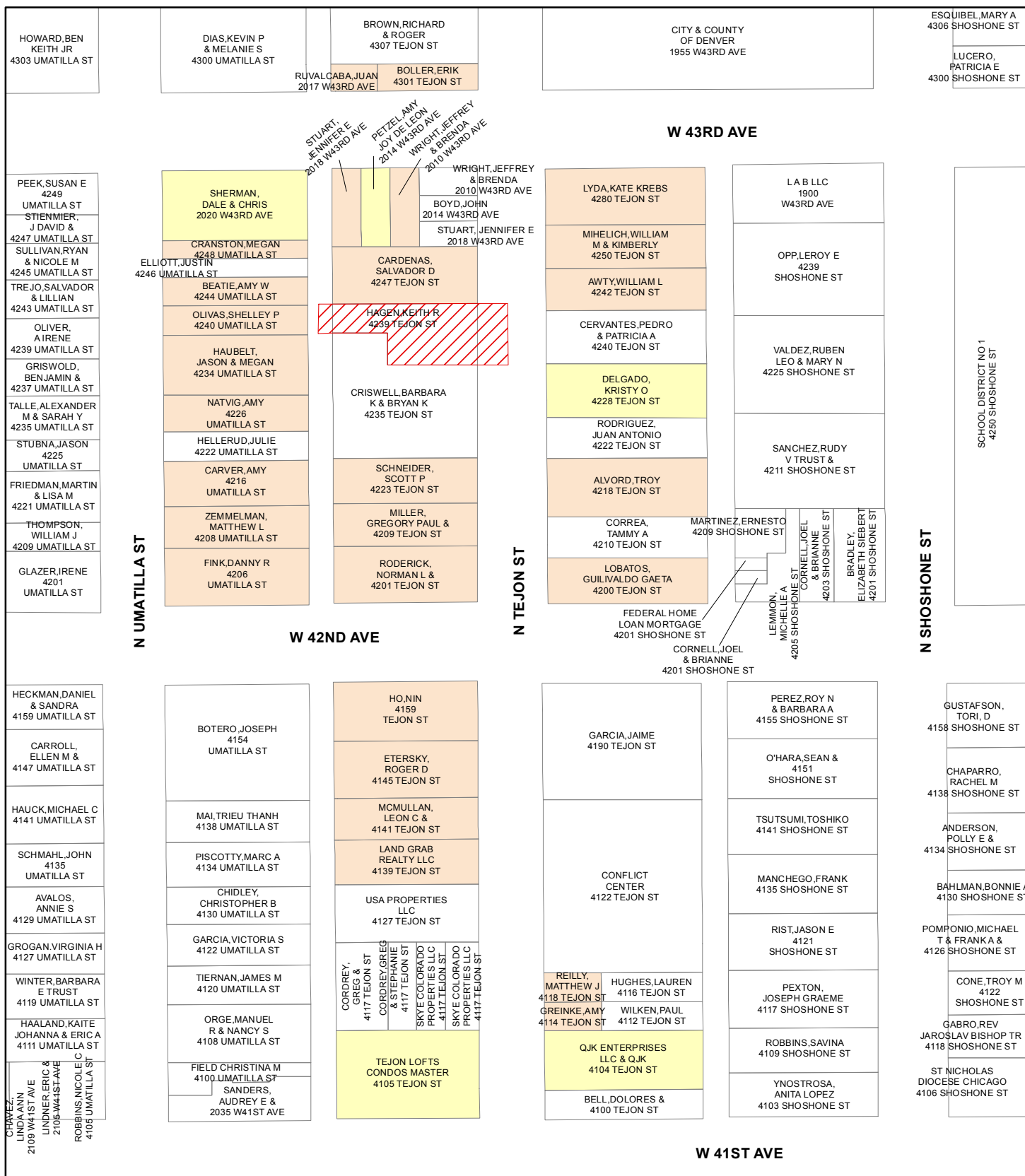
The tax id number is 84-1211806.



www.SunnysideDenver.org

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

Properties in Support of Re-zoning Application 2011I-00049



0 50 100 200 Feet

Map Date: November 16, 2011
Community Planning and Development

Date: November 2, 2011

To: Theresa Lucero

From: Susan Kang

Re: Neighborhood signatures

Pages: 4 including this one

CITY AND COUNTY OF DENVER
2011 NOV -3 AM 10:27
COMMUNITY PLANNING
AND DEVELOPMENT

These signatures are from my immediate block; my side of the street, across the street, around the corner as well as my alley neighbors. Also included are a few neighbors immediately outside this area. Everyone who I did speak to had no objections whatsoever. The signatures represent those neighbors that were home. I tried every home at least twice, sometimes three.

If there are any questions, please call me @ 720-273-8973.

Thank you,



Susan Kang

Neighborhood Petition – October 2011

"I am a neighbor of 4239 Tejon St. and I support the owners request to change the zoning of their home from commercial to residential."

Property Address	Printed Name	Signature
4020 2020 W. 43rd Ave	Amy Houser	Amy E Houser
4248 Umatilla St	Megan Cranston	M. Cranston
4234 Umatilla St	Megan Hawbelto	Megan Hawbelto
4201 Umatilla St.	Irene Glazer	Irene Glazer
4218 Tejon St	Mariam Badakhshan	M. Badakhshan
4200 TEJON	Moises TEJEDA	Moises TEJEDA
4201 Tejon	Josephine Rodenick	Josephine Rodenick
439 TEJON	Jennifer Jett Muehn	J. Muehn
4191 Tejon	Leann McMillan	Leann McMillan
4226 Umatilla	Amy Nativin	Amy Nativin
4114 Tejon St	Amy Greinke	Amy Greinke
4118 Tejon St	Matt Reilly	Matt Reilly
Shirley Delgado	Shirley Delgado	Shirley Delgado
4228 Tejon St ←		

3-888-3735

Neighborhood Petition – October 2011

"I am a neighbor of 4239 Tejon St. and I support the owners request to change the zoning of their home from commercial to residential."

Property Address	Printed Name	Signature
2018 W 43rd Ave	Jennifer Stuart	Jennifer Stuart
2014 W. 43rd Ave	Elaine	Elaine
4301 W. Tejon St	E.K. Balic	E.K. Balic
4290 Tejon St	Kate Lyda	Kate Lyda
4250 Tejon St.	Kimberly Mihelich	Kimberly Mihelich
2010 W. 43rd Ave	Ryan Bell	Ryan Bell
4244 Unatilla St.	ALEX MERWIN	ALEX MERWIN
4216 Unatilla St	Amy CARVER	Amy & Carver
4240 Unatilla St.	Shelley Olivas	Shelley Olivas
4206 Unatilla St.	Dan Fink	Dan Fink
4208 Unatilla St	Michelle Zimmelman	Michelle Zimmelman
4247 Tejon St	Salgado Carjona	Salgado Carjona
2030 W. 43rd Ave	Nelissa Gallic	Nelissa Gallic

Neighborhood Petition – October 2011

"I am a neighbor of 4239 Tejon St. and I support the owners request to change the zoning of their home from commercial to residential."

[illegible]

To Thank You

Neighborhood Petition – October 2011

"I am a neighbor of 4239 Tejon St. and I support the owners request to change the zoning of their home from commercial to residential."

[illegible]

