



DENVER
THE MILE HIGH CITY

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

TO: Denver City Council
FROM: Theresa Lucero, Senior City Planner
DATE: July 25, 2011
RE: Zoning Map Amendment Application #20111-00013
3011 West 49th Avenue
Rezoning from E-MX-2x to E-MX-2

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 #20111-00013 for a rezoning from E-MX-2x to E-MX-2.

I. Scope of Rezoning

Application:	#20111-00013
Address:	3011 West 49 th Avenue
Neighborhood/Council District:	Regis / Council District #1
RNOs:	Berkeley Neighborhood Association; Berkeley Regis United Neighbors, Inc.; Chaffee Park Neighborhood Association; Federal Boulevard Corridor Improvement Partnership; Northwest Neighbors Coalition; Northwest Quadrant Association; and Inter-neighborhood Cooperation
Area of Property:	0.286 Acres / 12,500 SF
Current Zoning:	E-MX-2x
Proposed Zoning:	E-MX-2
Applicant/Owner:	49 th Green, LLC
Contact Person:	Vickie Marchino

II. Summary of Proposal and Existing Conditions

This proposed rezoning will allow the existing garage structure to be used for automobile repair. The garage structure was built in 1922 and has operated in the past as a business use exception (for nonresidential structures in residential zone districts).

The site is located at the intersection of West 49th Avenue and Green Court (see attached map) one block west of Federal Boulevard. The location is within the Regis Neighborhood within a block of Regis University. It is surrounded by a mix of residential, institutional and commercial structures. The site is surrounded on the north and west by a stable low-rise single-family residential block and on the east and south by commercial structures. The local block pattern consists primarily of traditional grid patterns with alleys, detached sidewalks and tree lawns.

Directly adjacent to the site on the north is a single family home, to the south of the site across West 49th Avenue is a motel and fast food business, to the east of the site across an alley is a

tire shop and west of the site across Green Court is a single-family home. The existing garage structure on the property was previously used as an auto repair garage. The other structure on the property is a cell tower.

III. Legal Justification for Rezoning

Changed Conditions

Rezoning to E-MX-2 will allow the existing garage structure to be used for auto repair. Under Former Chapter 59 the garage operated as a Business Use Exception (for non-residential structures in residential zone districts). In the 2010 citywide rezoning the property was rezoned to E-MX-2x, a zone district that does not allow an auto repair land use.



IV. Existing Context

	Existing Zoning	Existing Land Use	Blueprint Denver
Site	E-MX-2x	Vacant Commercial Structure	Area of Stability Single Family Residential
North	U-SU-C	Single Family Residential	Area of Stability Single Family Residential
South	E-CC-3X/B-2	Commercial Uses	Area of Stability Neighborhood Center
West	U-SU-C	Single Family Residential	Area of Stability Single Family Residential
East	E-CC-3X	Commercial Uses	Area of Stability Neighborhood Center



Property north of 3011 W. 49th Avenue



Property south of 3011 W. 49th Avenue



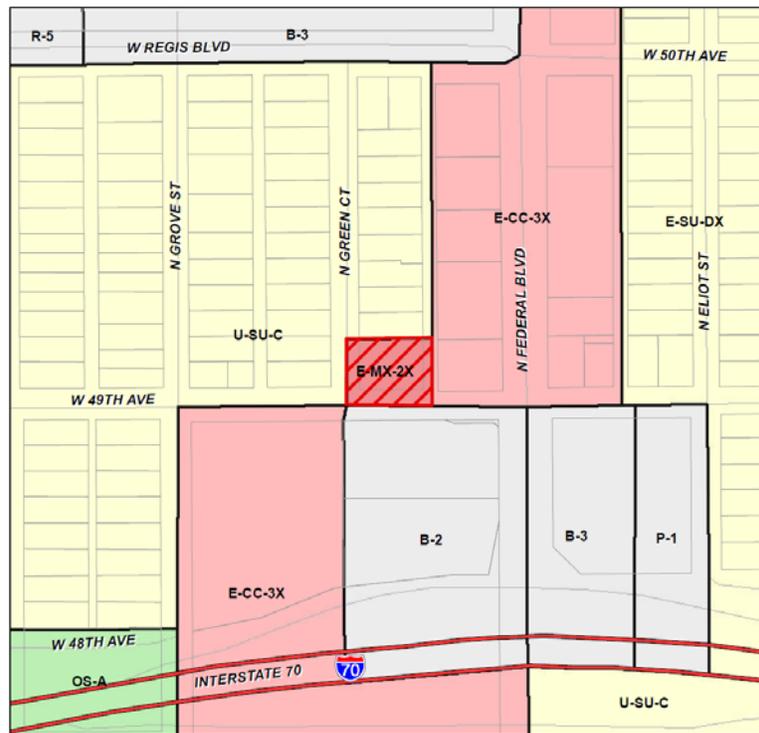
3011 W. 49th Avenue



Property east of 3011 W. 49th Avenue



Property west of 3011 W. 49th Avenue



V. Summary of Legal Notice and Public Process

Planning Board

The Denver Planning Board, at a July 6, 2011 public meeting, recommended approval of the application on their consent agenda. The property was legally posted for a period of 15 days announcing the Planning Board public hearing and written notification of the hearing was sent to all affected registered neighborhood associations.

Land Use, Transportation and Infrastructure Committee

The Land Use, Transportation and Infrastructure Committee, at a July 12, 2011 meeting voted to file the rezoning bill. Written notification of the Land Use Transportation and Infrastructure Committee Meeting was sent to all affected Registered Neighborhood Associations ten days prior to the meeting.

City Council

The property was legally posted for a period of 21 days announcing the City Council public hearing and written notification of the hearing was 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
Denver Parks:	No Comment

Development Services-City Survey: No Comment Received

Development Services-Transportation: Transportation approves the zone map amendment. The applicant should note that redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process.

Development Services-Wastewater: No Comments Received

VII. Community Response

The applicant sent letters explaining their proposed zone change to all effected Registered Neighborhood Associations. The Berkeley Regis United Neighbors, Inc. association sent a letter of support for the rezoning. That letter is attached.

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*
- *Denver Zoning Code*

A. Denver Comprehensive Plan 2000

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

- Land Use chapter, Strategy 3-B is to “*Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses*” (p.60).
- Mobility chapter, Strategy 4-E to “*Continue to promote mixed-use development, which enables people to live near work, retail and services*” (p.78).
- Economic Activity chapter, Strategy 3-B to “*Support retention and expansion of businesses in industries historically important to Denver, including small business...*”

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 existing garage structure was built in 1922 and predates Blueprint Denver. While the existing structure does not conform to the Blueprint Denver land use concept, it does conform to the Blueprint Denver strategies of reinvestment in Areas of Stability and compatibility between existing and new development (p. 24-25). The E-MX-2 zone district will allow the operation of a new auto repair land use in an existing structure that is in scale with the existing neighborhood.



C. *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 #20111-00013 is consistent with the general review criteria outlined in this section of the Denver Zoning Code including:

A. Consistency with Adopted Plans: Rezoning #20111-00013 implements and is consistent with recommendations in adopted plans.

B. Uniformity of District Regulations and Restrictions: Rezoning the site to E-MX-2 will have no effect on the uniformity of district regulations.

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

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

A. **Justifying Circumstances**

Denver Zoning Code Criteria is that the land or its surrounding environs has changed 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 is in response to the changed circumstance of the new zoning on the property and the inability to use the existing structure for the purpose for which it was constructed. The proposed E-MX-2 zone district will bring the property into a compatible zone district with adjacent commercial properties and will allow similar building forms and land uses.

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

Denver Zoning Code Criteria is that the proposed official map amendment should be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district. Overall, the proposed map amendment is consistent with the Urban Edge Neighborhood Context which is primarily single-unit, two-unit and small-scale multi-unit residential uses and commercial areas which are typically embedded in residential areas. Commercial buildings typically have a deep enough front setback to allow a mix of landscaping and some parking (D.Z.C. 4.1.1). In addition, the proposal is consistent with the purpose of mixed use zone districts which is to improve the transition between commercial areas and residential neighborhoods, and with the intent of the E-MX-2 zone district which applies to areas primarily served by local streets where a building scale of 1-2 stories is desired (D.Z.C. 4.2.4.1).

IX. Staff Recommendation

Based on the criteria for review as defined above, Staff recommends **approval** for rezoning the property located at 3011 West 49th Avenue (Application #2011I-00013) to E-MX-2.

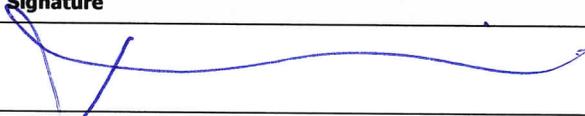
Attachments:

1. **Application**
2. **Map Series – (Aerial, Zoning, Blueprint Map)**
3. **1 letter of support**



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 Denver, CO 80202
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APPLICATION FOR ZONE MAP AMENDMENT

Application #	2011 I - 00013	Date Submitted	04/27/11	Fee Required	1000	Fee Paid	1000
APPLICANT INFORMATION				CONTACT INFORMATION (Same as Applicant? <input type="checkbox"/>)			
Applicant Name	49 th Green LLC			Contact Name	Vicky Marchino		
Address	1124 Purdue Drive.			Address	1124 Purdue Drive		
City, State, Zip	Longmont Co. 80503			City, State, Zip	Longmont Co. 80503		
Telephone / Fax	858 / 342-6592			Telephone / Fax	303 / 589-9090		
Email	tony@layconn.com			Email	Vicky.Marchino@ERATradewind.com		
Subject Property Location [Please Include Assessor's Parcel Number(s)]							
3011 West 49 th Avenue, Denver Co. 80221 APN # 0217301011000							
Legal Description of Subject Property							
BERKELEY B89 L21 TO 24 EXC REAR 8FT TO CITY							
Area of Subject Property (Acres/Sq Ft)		Present Zone District		Proposed Zone District (Waivers and Conditions Require Separate form)			
12,500		E-MX-2x		E-MX-2			
Describe the nature and effect of the proposed Zone Map Amendment							
Rezoning from E-MX-2x; Urban Edge - Mixed use (Automotive Services, light; Not a permitted use) to E-MX-2; Urban Edge - Mixed use (Automotive Services, light; Permitted) with the intent to continue existing Business Structure usage Automotive Services (light).							
Select Legal Basis for the Zone Map Amendment and explain in detail				Error in the map as approved by City Council			<input type="checkbox"/>
				Changed or Changing Conditions that make a Zone Map Amendment Necessary			<input checked="" type="checkbox"/>
Due to zoning change in June 2010, Automotive Services (light) is no longer allowed under the new zoning E-MX-2x. Therefore the previously allowed "Administrative Exception", (Business Use Exception) from the former Chapter 59 zoning code is no longer available for business structures.							
State the land use and the development proposed for the subject property. Include the time schedule (if any) for development							
Continue previously allowed usage; Automotive Services (light)							
Required Exhibits				Additional Exhibits			
Applicant & Owner Information Sheet				<input type="checkbox"/>			
Maps - Required for Final Submissions				<input type="checkbox"/>			
Case Manager	Theresa Lucero						
Signature						Date	
						6/7/2011	



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
2011 I - 00013	49 th Green LLC

Property Address(es)
3011 West 49th Avenue, Denver Co. 80221

Applicant's Address
1124 Purdue Drive Longmont Co. 80503

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.

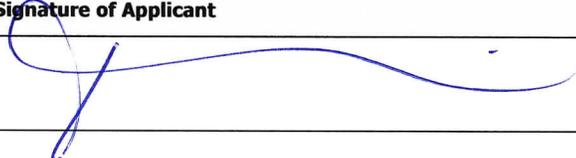
Indicate as accurately as possible the form of interest in the property, and the amount held by the individual or entity listed as "applicant" above.

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"/>

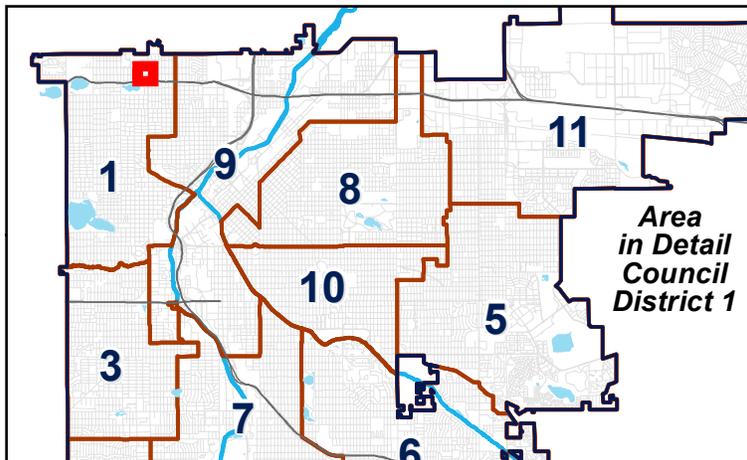
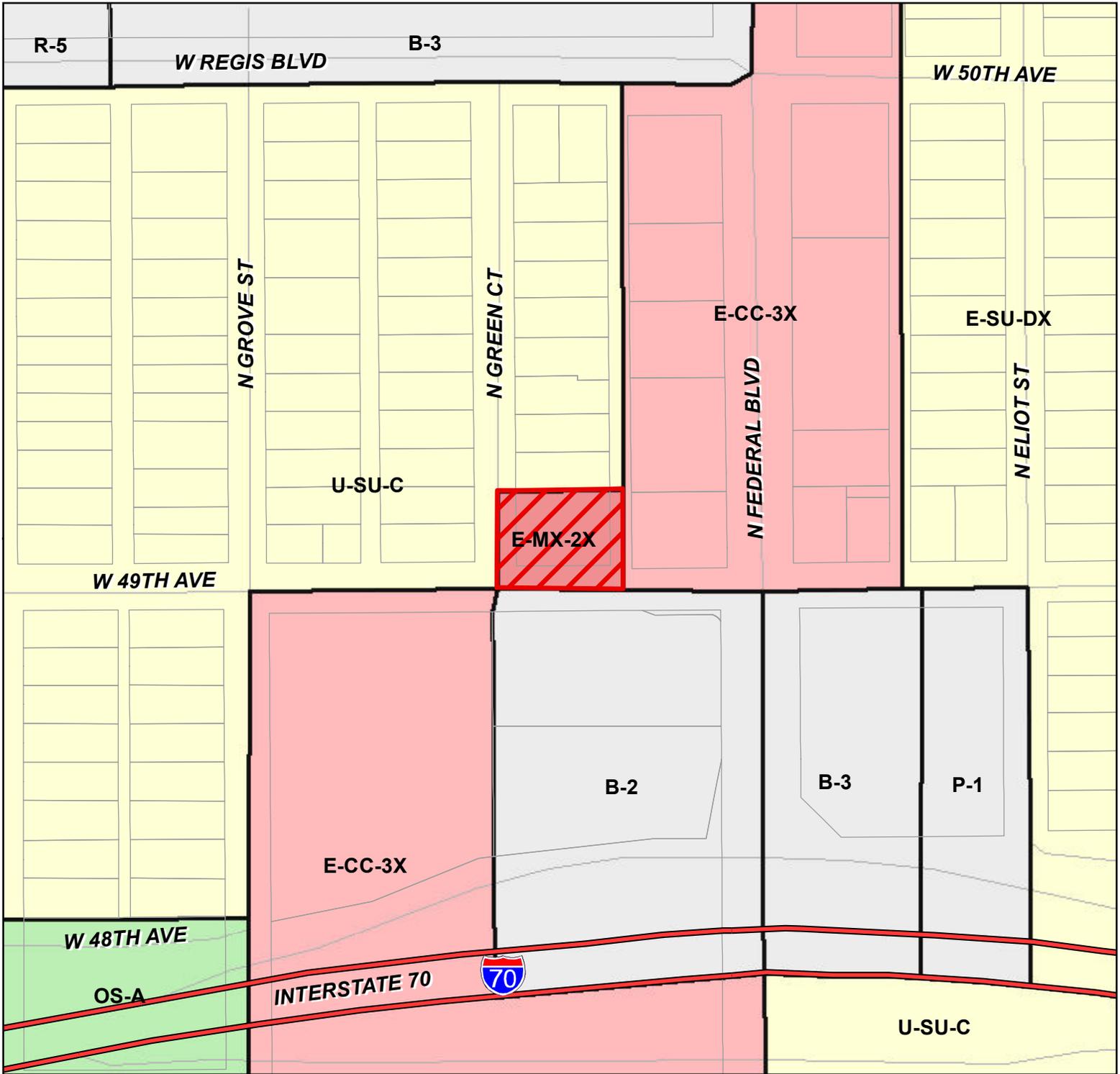
List the names and addresses of all owners and holders of Deeds of Trust for the property, if any, and indicate which owners or holders of deeds of trust are represented by the applicant in the space below (please add additional pages, if needed).

Sonja Lampson 31755 Rancho Amigos Rd. Bonsall, Ca. 92003 **(Represented by the applicant)**

Anthony M. Marchino 1124 Purdue Dr. Longmont, Co. 80503 **(Represented by the applicant)**

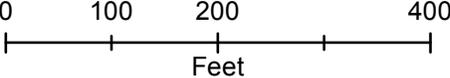
Signature of Applicant	Date Signed
	6/7/2011

Pending Zone Map Amendment #2011I-00013



Application #2011I-00013
Location: 3011 W. 49th Ave.

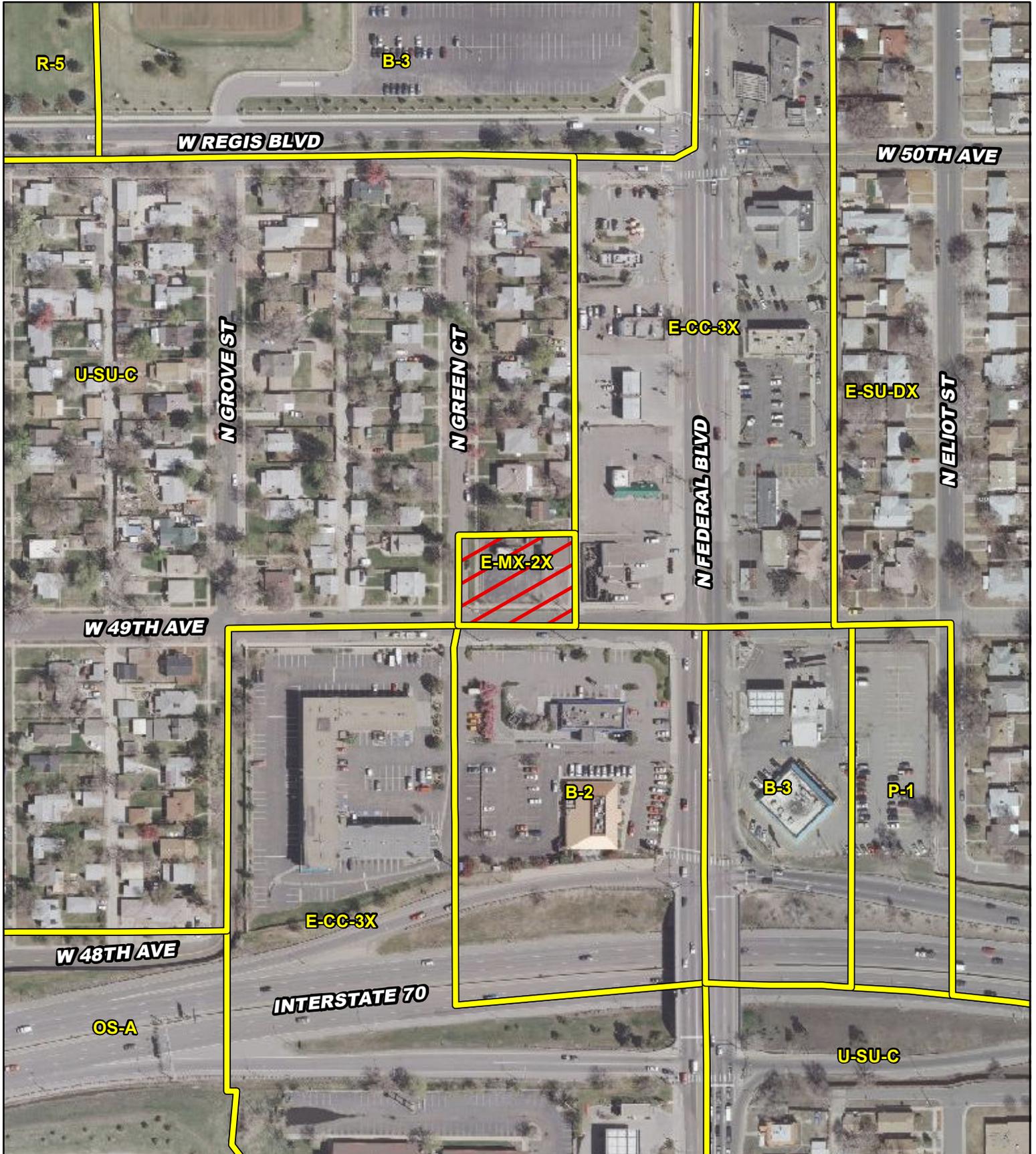
 **Proposed Rezoning**
From: E-MX-2X
To: E-MX-2

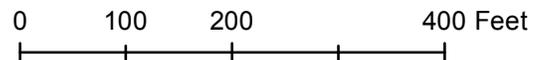
Map Date: 5/9/11

Pending Zone Map Amendment - Aerial & Zoning Overlay

 Application #2011-00013



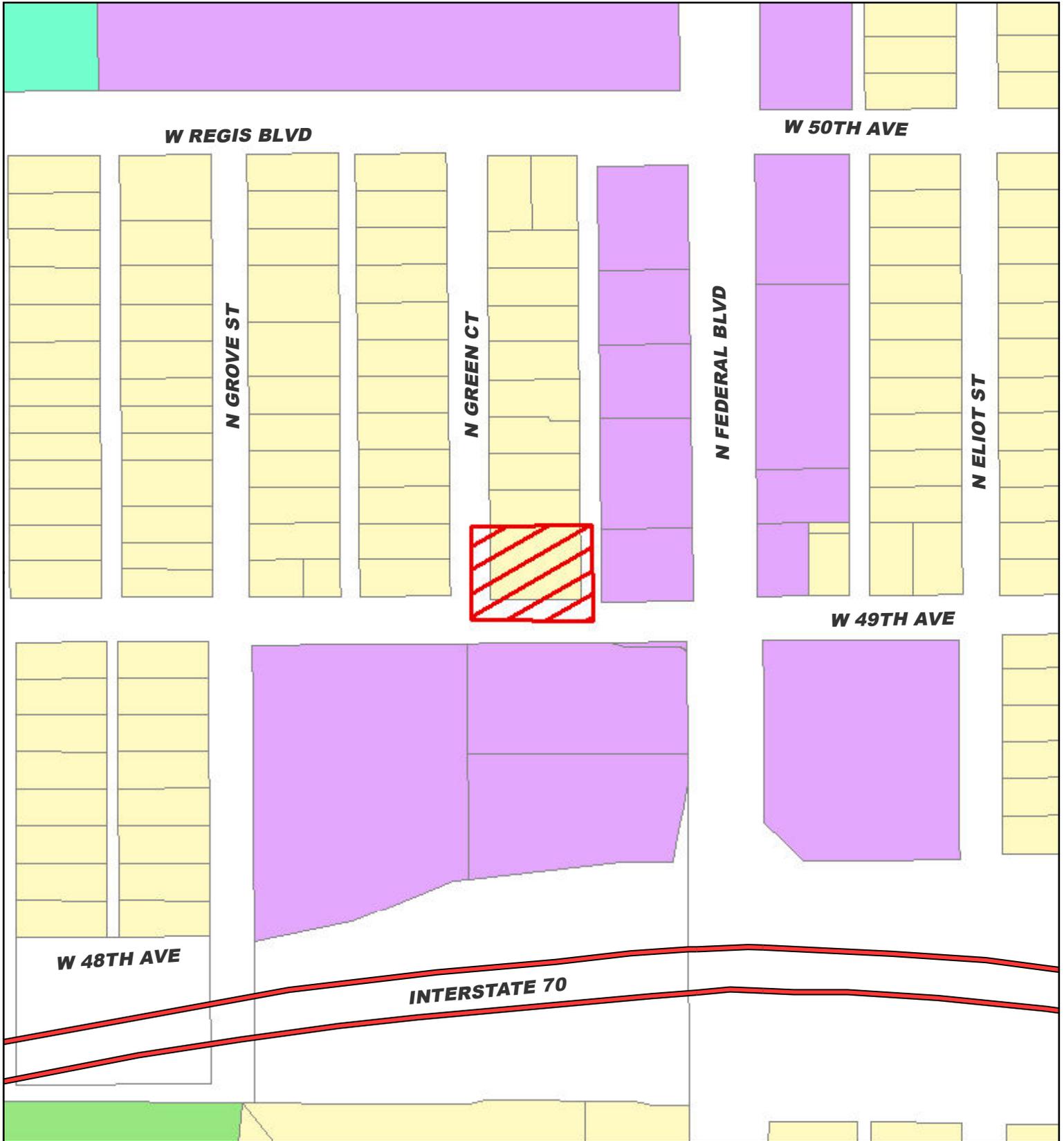
Aerial Photo: April 2010
Community Planning and Development



Map Date: 5/9/11

Pending Zone Map Amendment - Blueprint Denver Overlay

 Application #2011I-00013



 Single Family Residential

 Neighborhood Center

 Campus

 Area of Change

 Pending Zoning Amendment

0 100 200 400 Feet

Map Date: 5/9/11



**CITY AND COUNTY OF DENVER, COLORADO
REGISTERED NEIGHBORHOOD ORGANIZATION
POSITION STATEMENT**

Following a vote of the Registered Neighborhood Organization, please complete this form and email to **RNOresponses@denvergov.org**. You may save the form in *.pdf format if needed for future reference. Questions may be directed to planning staff at rezoning@denvergov.org or by telephone at 720-865-2983.

Application Number	20111-00013
Location	3011 W. 49th Ave.
Registered Neighborhood Organization Name	Berkeley Regis United Neighbors
Registered Contact Name	Dave Decker
Contact Address	4258 Tennyson St., Denver CO 80212
Contact E-Mail Address	deck27@aol.com
Date Submitted	6/22/11

As required by DRMC § 12-96, a meeting of the above-referenced Registered Neighborhood Organization

was held on 6/21/11, with 6 members in attendance.

With a total of 6 members voting,

6 voted to support (or to not oppose) the application;

0 voted to oppose the application; and

0 voted to abstain on the issue.

It is therefore resolved, with a total of 6 members voting in aggregate:

The position of the above-referenced Registered Neighborhood Organization is that Denver City Council

approve Application # 20111-00013

Comments:	
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