



TO: Denver City Council
FROM: Andrew Webb, Senior City Planner
DATE: August 7, 2017
RE: Official Zoning Map Amendment Application #2016I-00155

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2016I-00155.

Request for Rezoning

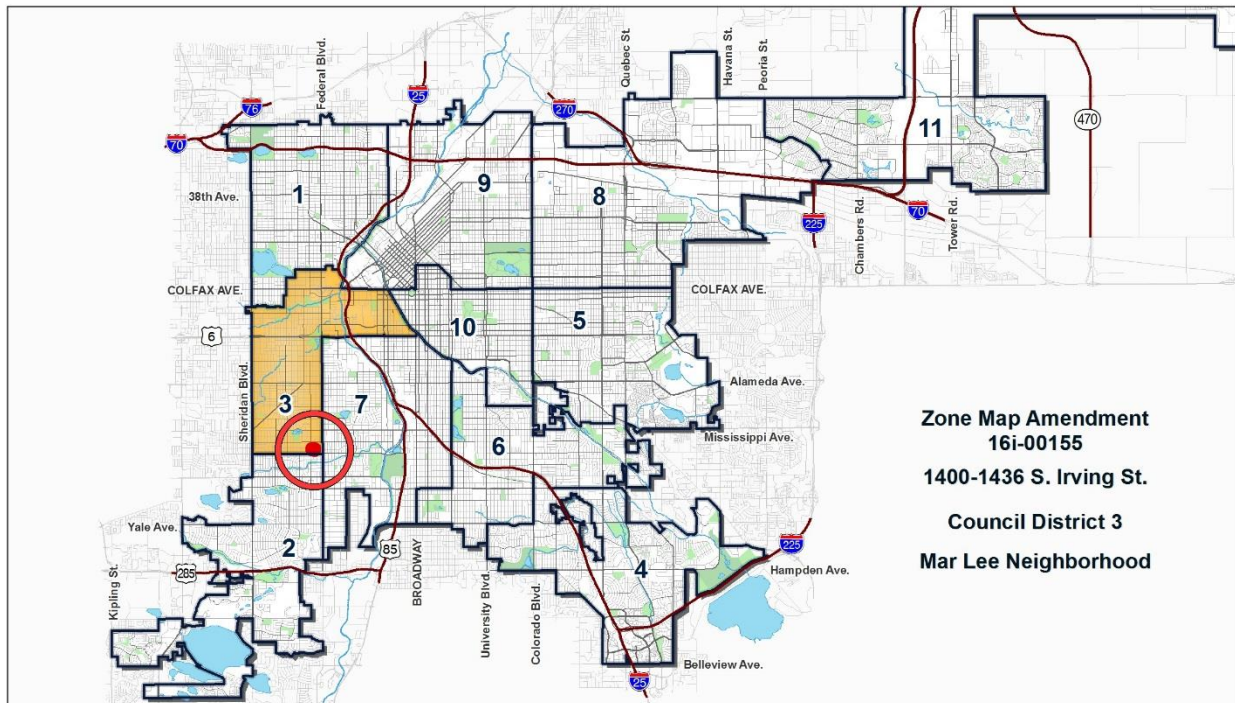
Address: 1436 and 1400 South Irving Street
Neighborhood/Council District: Mar Lee/Council District 3
RNOs: Greater Mar Lee Community Organization, Denver Neighborhood Association Inc., Inter-Neighborhood Cooperation (INC).
Area of Property: 2.86 acres (124,582 s.f.)
Current Zoning: PUD 180
Proposed Zoning: S-MU-3
Property Owner(s): CWP Parkwood Plaza LLC, represented by Marc Venegas; and Humberto Guzman Viramontes
Owner Representative: Cory Rutz, Otten Johnson Robinson Neff + Ragonetti PC, representing only CWP Parkwood Plaza LLC

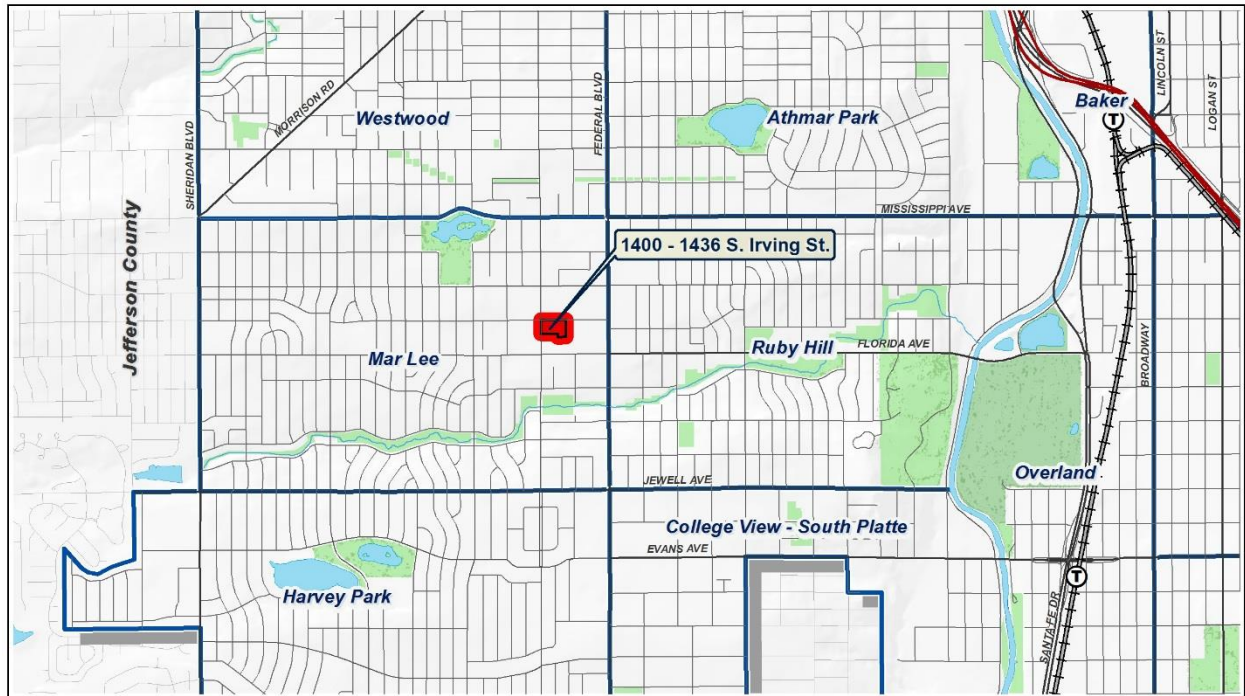
Summary of Rezoning Request

- The subject property is located in the Mar Lee statistical neighborhood, near the intersection of South Federal Boulevard and Arkansas Avenue. The site is currently occupied by five 3-story apartment buildings, built in 1981, and one single-family house structure.
- The subject property is comprised of two assessor's parcels, 1400 and 1436 Irving Street.
- The existing zoning is a Planned Unit Development District (PUD 180) that includes the single-family residential structure, which is under separate ownership. The PUD allowed residential uses and commercial uses for the single-family structure, which was in use as a business at the time the current PUD was established in 1985. All structures currently located at the site existed when PUD 180 was established.
- The property owners are requesting a rezoning to correct a discrepancy between the number of units permitted by the PUD (116 units) and the actual number of units in the development (121, including the single-family structure, which is currently in use as a residence). The discrepancy was discovered when a recent purchaser of the apartment property (1436 S. Irving Street)

requested a zoning letter from the City as part of real estate due diligence. The letter indicated that the existing improvements on the property were not in conformance with the zoning established by the PUD. Building permit records on file do exhibit some inconsistencies in the number of units in each of the apartment buildings – some list 23 units, while others list 24.

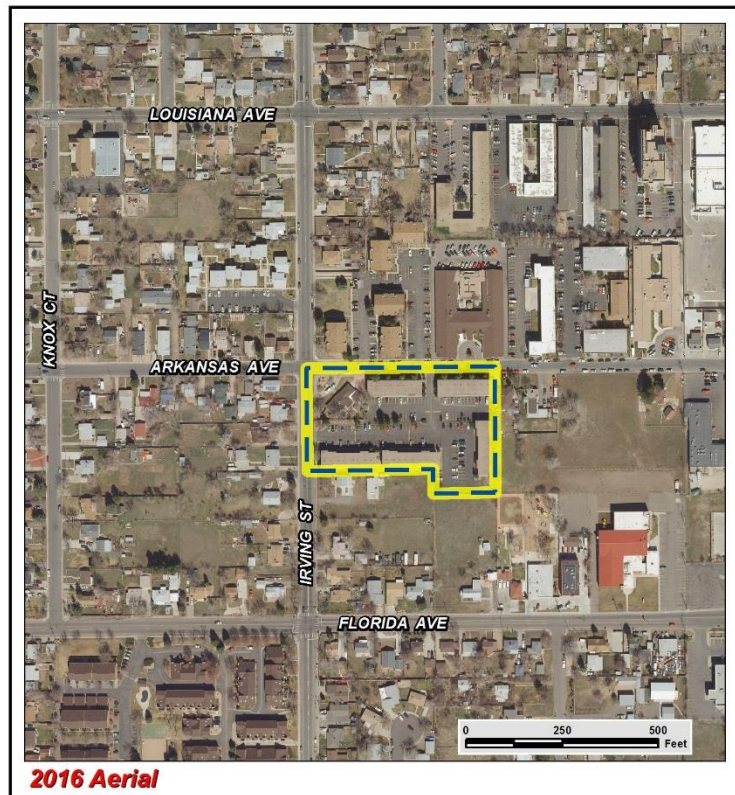
- The property owners are requesting to rezone both parcels from PUD 180 to S-MU-3 to correct this noncompliance issue.
- The requested zone district, S-MU-3, is defined as Suburban Neighborhood Context, Multi Unit, 3-story maximum height, which accommodates a variety of residential uses and building forms. Further details of the zone districts can be found in Article 3 of the Denver Zoning Code (DZC).





Existing Context

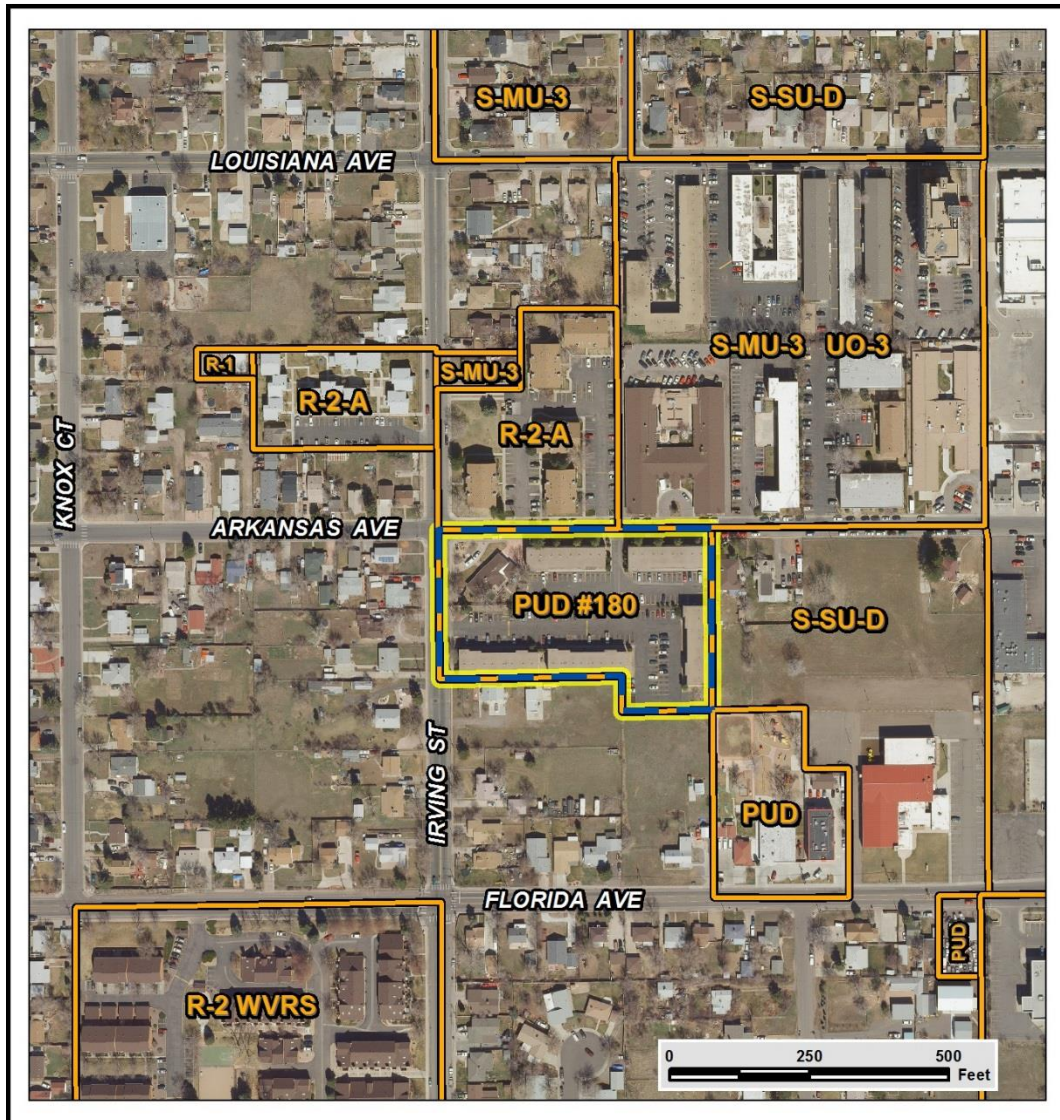
The site is located at the southeast corner of Irving Street and Arkansas Ave. It is about one block west of the Federal Boulevard commercial corridor and is in an area of higher intensity residential uses that transitions into single-family residential uses to the west. The immediate surrounding blocks include multi-family and single-family residential structures to the north, south and west, and commercial uses along Federal to the east. The block directly north of the subject property is comprised primarily of 2- and 3-story multifamily structures with a similar appearance and scale to the five 3-story apartment structures on the site. Other nearby uses include a church to the south and a 2-story nursing home to the north. An elementary school, middle school and two high schools are



located within four blocks of the site. Transit access includes high-frequency bus services on Federal Boulevard and Florida Ave a half-block to the east and south, respectively. Florida Avenue has bicycle lanes, and the site is also proximate to the Sanderson Gulch Trail, an east-west paved multi-use trail that provides access to the Platte River Trail.

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

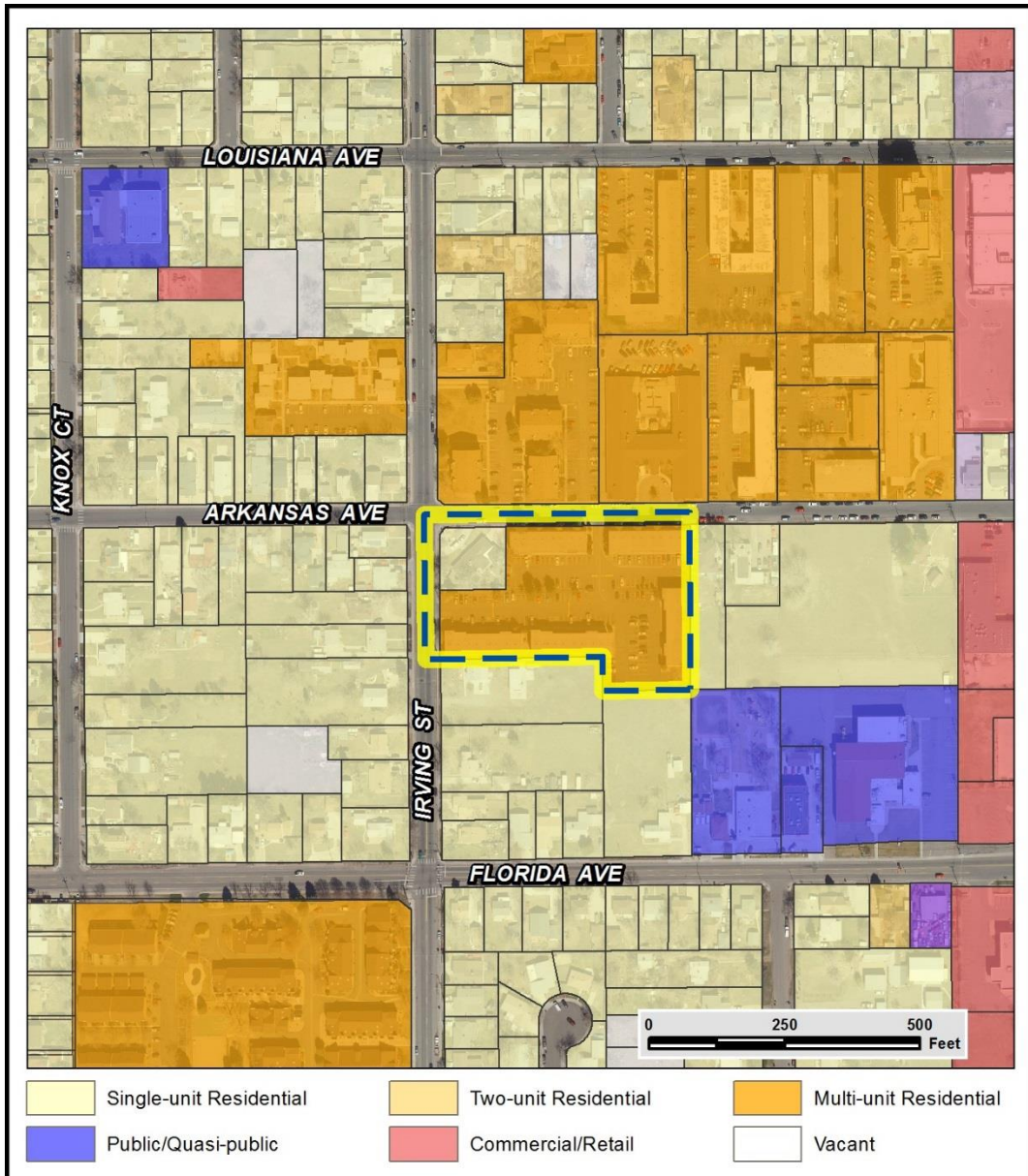
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	PUD 180	Multifamily apartments, single-family residence	Five 3-story walkup apartment buildings, eight units per floor. Single-family ranch-style home at NW corner of subject site	Site is within one of multiple larger 1200' by 600' blocks that flank the west side of Federal Boulevard. Blocks of single-family detached homes immediately to the west are square and measure about 600' by 600'. Streets are arranged in a grid. Blocks immediately to the west of Federal are not served by alleys. Further to the west, blocks become more rectangular, with alleys.
North	R-2-A (Former Chapter 59); S-MU-3, S-MU-3 UO-3	Multifamily apartments, nursing home	1-,2- and 3-story multifamily homes, one 10-story apartment tower	
South	S-SU-D, PUD 611	Single-family homes, church and school facility (on PUD site)	1-story detached homes, two-story church and two-story church school structure	
East	S-SU-D, E-CC-3x	Single-family housing, vacant land, commercial uses (along Federal Boulevard corridor)	1.5- and 1-story detached houses, 1-story commercial structures (along Federal)	
West	S-SU-D	Single-family homes	1.5- and 1-story homes	



1. Existing Zoning

Land use on this site is currently governed by PUD 180, adopted in 1985 after the apartment complex had been constructed. The PUD permitted building heights up to 3 stories “which shall not exceed a total of 28 feet.” It also specified that the site “shall contain space for parking 182 vehicles.” The District Plan map for PUD 180 showed existing setbacks of 10 feet from street frontages along Arkansas Avenue and Irving Street and 7-foot, 6-inch interior setbacks. It established a maximum fence height of 6 feet. The PUD specified 116 residential units, and also permitted an existing business use (interior décor and drapery manufacturing) to continue in the 2,700-square-foot detached residential structure within the PUD boundary. (According to the applicant, business use of the residential structure has since ceased). With regard to the number of residential units, city records for this site indicate that there may have been some past

inconsistency regarding the number of units planned for and ultimately constructed on the site. These are described in detail in Criteria for Review/Staff Evaluation below.



2. Existing Land Use Map

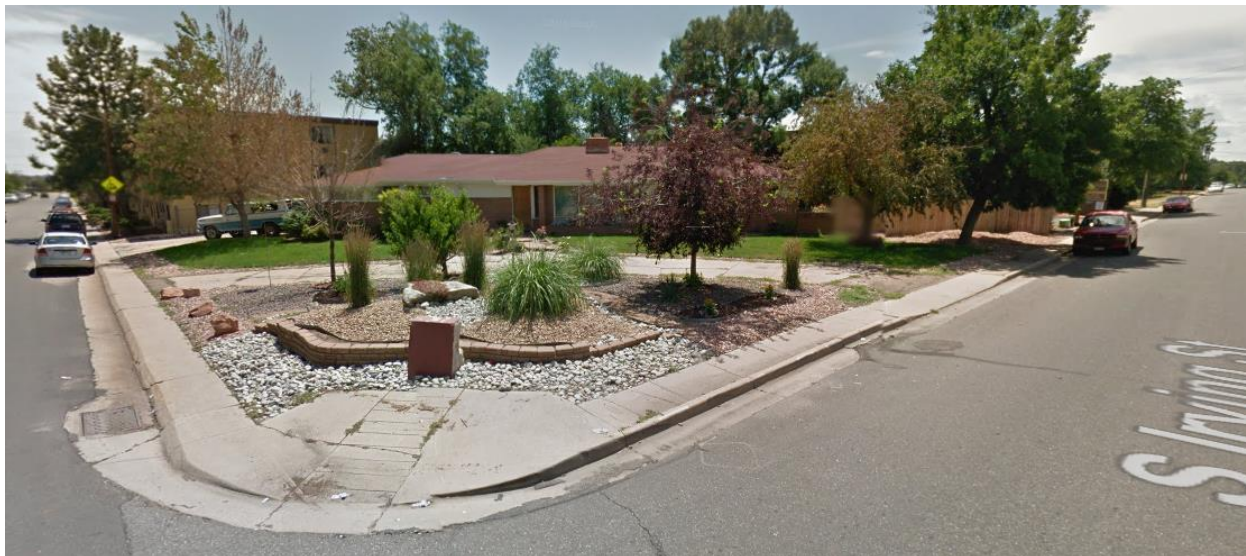
As shown above, existing land uses in the area are primarily single- and multi-family residential, with a public (church) use to the south and commercial uses along Federal Boulevard to the east.

3. Existing Building Form and Scale

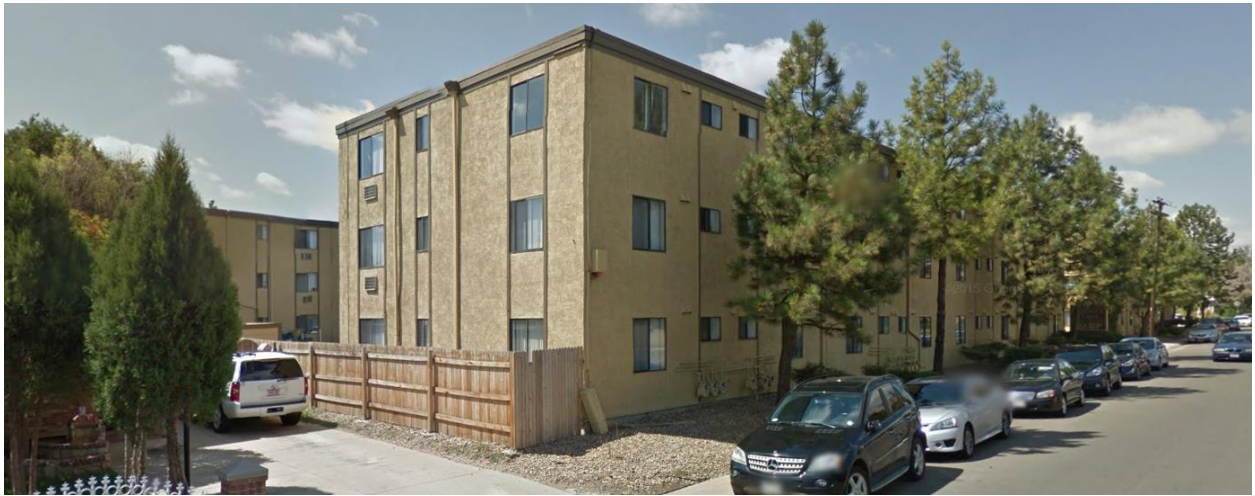
The existing building form and scale of the subject site and adjacent properties are shown in the following images. (Source: Google Maps)



45-degree aerial of site, looking southeast



Subject site, looking southeast



Subject site, looking southwest



Adjacent house in foreground and subject site in background, looking northeast



Homes across from subject site, looking west



Apartment buildings across Arkansas Avenue from subject site, looking northeast.

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:

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

Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on

the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

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

Asset Management: Approved, no comments.

Public Works – City Surveyor: Approved after revisions made.

Development Services – Project Coordination: Approved, no comments.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	4/6/17
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:	5/22/17
Planning Board Public Meeting	6/7/17
Land Use, Transportation & Infrastructure Committee	6/27/17
City Council Public Hearing	8/7/2017

- **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 of this report were notified of this application. At the time of this staff report, no RNO correspondence had been received.
- **Other Public Comment**
 - As of the date of this staff report, no further public comment had been received.

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

Denver Comprehensive Plan 2000

The proposal is consistent with many Denver Comprehensive Plan objectives, strategies and recommendations related to housing and transportation, including:

- Housing Objective 2 – *Encourage preservation and modernization of Denver’s existing housing stock and established neighborhoods.*
- Housing Strategy 2-C – *Review current codes and policies for residential infill development and additions to existing homes. Whenever possible, streamline the process while maintaining design and construction quality.*
- Housing Strategy 6-B – *Continue to support mixed-income housing development that includes affordable rental and for-purchase housing for lower-income, entry-level and service employees, especially in Downtown and along transit lines.*
- Land Use Objective 2 – *Clarify and update Denver’s Zoning Ordinance and related ordinances, regulations and procedures to be consistent with the objectives of Denver’s Citywide Land Use and Transportation Plan.*
- Land Use Recommendation (p. 47) -- *the Denver Zoning Ordinance and related components of the City’s land-use regulatory system should be updated, clarified and simplified wherever possible*

The proposed S-MU-3 zone will enable the continued operation and maintenance of housing located near two major transit routes, including the designated Enhanced Transit Corridor of Federal Boulevard, half a block to the east. Moreover, this proposed rezoning would further a Comprehensive Plan 2000

recommendation to continually update and clarify the City's land use regulatory system by retiring a Planned Unit Development (PUD) district and applying a Zone District from the current Denver Zoning Code to this site. The S-MU-3 zone would not only permit the subject site's ongoing use for multifamily housing, it would enable future redevelopment consistent with Comprehensive Plan goals for multifamily housing design quality and density.

Blueprint Denver

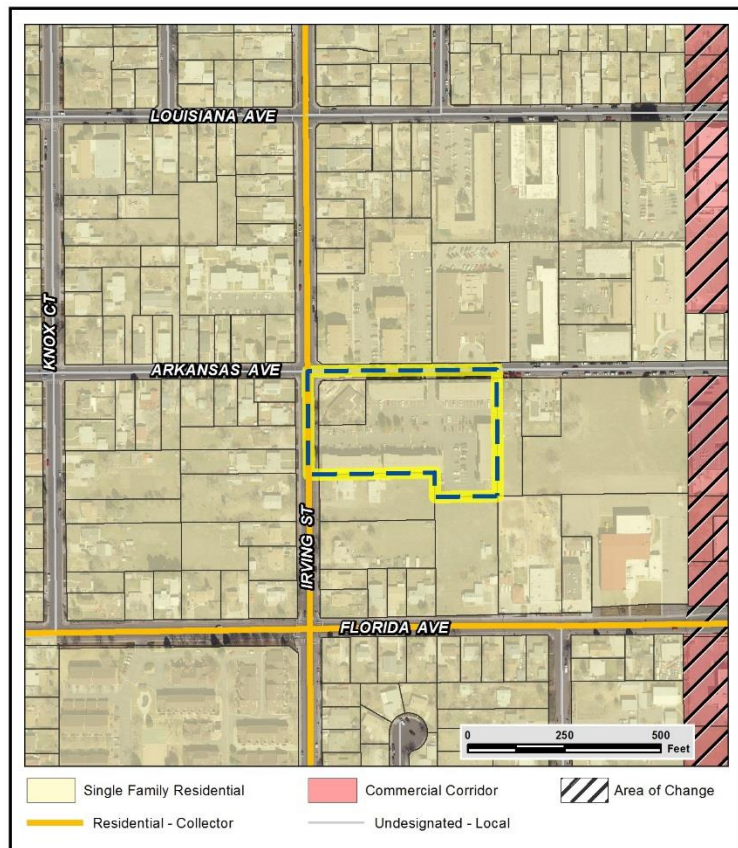
According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Single Family Residential and is located in an Area of Stability.

Future Land Use

According to Blueprint Denver, future development in areas with the concept land use of "Single Family Residential" will be characterized by relatively low density of 10 or fewer units per acre, with single-family homes as the predominant residential type. (p. 42)

This proposed rezoning can be considered consistent with Blueprint Denver's concept land use designation in this area, as it allows continuation and reinvestment in an existing residential land use and would actually reduce opportunities for non-residential uses currently permitted by the existing PUD 180 (which permitted a home improvement supply business to operate in a single-family structure

on the site). It should also be noted that Blueprint Denver's future land use concepts are considered a high-level assessment of conditions on the ground at the time of its adoption that were intended to be further refined by small area plans and other area-specific analyses. Despite the Single Family Residential designation, multiple higher-density multifamily residential developments existed in this area at the time of Blueprint Denver's adoption and will continue to operate there (see Existing Land Use Map, above). This rezoning is in the public interest because it will enable the ongoing operation and maintenance of this 35-year-old apartment complex, thus contributing to the stabilization and livability of surrounding single-family neighborhoods, and the preservation of existing rental housing. It could also allow future redevelopment of the site that conforms to modern building design standards for multifamily development.



Area of Change / Area of Stability

As noted above, Blueprint Denver designates the subject site and the immediately surrounding area as an “Area of Stability.” These areas “include the vast majority of Denver, primarily the stable residential neighborhoods and their associated commercial areas, where limited change is expected in the next 20 years. The goal for Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment.” (p. 120) Rezoning, site development plans and area plans proposed in Areas of Stability should further a set of guiding principles established by Blueprint Denver, including “respecting valued development patterns” like relationships of buildings to the street, landscaping and building scale, “respect valued attributes of an area” like “diversity of housing types and prices,” and expand transportation choice by providing access to transit and pedestrian infrastructure. (p. 141). Blueprint Denver also noted that “in some instances, it may be appropriate to change the zoning in Areas of Stability to create a better match between existing land uses and the zoning.” (p. 75) Neighboring multifamily properties that were previously zoned for multifamily uses under Former Chapter 59 zoning were re-mapped to S-MU-3 during the 2010 citywide rezoning, but this property and others with existing PUDs were left unchanged at that time.

This rezoning application is consistent with these Blueprint Denver Area of Stability recommendations and policies. This apartment complex and others in proximity are key components of the area’s built character and this proposed rezoning will allow for the ongoing operation and maintenance of this existing development. This rezoning will preserve existing housing diversity in the area that provides tenants with close access to high-quality transit and a major multi-use path; and it will enable future redevelopment of the site that is consistent with the area’s residential land use patterns while applying more recent design and siting requirements for multifamily development. Finally, it will further Blueprint’s recommendation to change zoning in Areas of Stability to better match existing development, and will bring the zoning of this property into the same district as other neighboring apartment developments.

Street Classifications

Primary access to both the apartment complex and the single-family house on the subject site is provided from Irving Street, which Blueprint Denver designates as a Residential Collector. Blueprint Denver defines Residential Collector streets as being “designed to emphasize walking, bicycling and land access over mobility” and that they “tend to be more pedestrian-oriented than commercial streets” (p. 55). Entrance to the property is also provided from Arkansas Avenue, which is an Undesignated Local Street. Collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas. The makeup of a collector street largely depends on the density, size and type of nearby buildings. Local streets are typically tailored to providing access to local land uses and support short trips at lower speeds to and from other streets. Arkansas Avenue provides access to a major commercial and transit corridor, Federal Boulevard, about half a block to the east of the subject site, and Irving to the west. The proposed rezoning of this site to S-MU-3 is consistent with the street types surrounding the property, which

are designed and designated to serve the mix of higher density residential uses east of Irving and single-family uses to the west.

Small Area Plan:

No Small Area Plans exist in the subject site area.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to S-MU-3 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City by bringing an existing multifamily development into compliance with zoning regulations, thereby enabling its ongoing operation and maintenance and preserving affordable rental housing. Moreover, should the property be redeveloped in the future, the S-MU-3 Zone District establishes modern site design requirements that will implement City policies for multifamily housing and add predictability to future uses of the site. The rezoning will further an ongoing City effort to reduce the number of obsolete, inflexible Planned Unit Development zone districts.

4. Justifying Circumstance

This application for rezoning proposes that the change is justified because the existing zoning of the land was the result of an error. The PUD 180 zone district was established in 1985 to replace a previous PUD (PUD 3) that had not included the single-family structure at the northwest corner of the subject site. At the time PUD 180 was established, the property's owner planned to acquire that structure and turn it into a community or recreation room for tenants of the apartments. Though the development history is unclear, the applicant believes that the original development may have received its certificate of occupancy upon construction in 1981 despite having four more units than had been described in PUD 3. PUD 180 did not correct this discrepancy, and the subsequent reversion of the single-family structure to residential use brought the number of units on the site to five units beyond what was set forth by both PUDs. This rezoning would remove limitations on the number of units permitted on the site, thus clearing up the discrepancy.

Analysis: Staff researched records for this site, including building permits, certificates of occupancy and documentation for the two PUDs that have been established there. Based on information available to the City, it does appear that there were inconsistencies between the number of units originally proposed and the number of units built. In his 1977 application for the original PUD (PUD 3), a previous owner of the property stated plans to build five 3-story apartment structures, each with 22 one-bedroom units and 1 two-bedroom unit, for a total of 23 units each, and a total of 115 apartment units on the site. The buildings were constructed between 1980 and 1981, and building permits for various components (e.g. foundations, framing) list the number of units in each at either 23 or 24. In several

cases, entries of “23” units have been scratched out, without explanation or replacement figures. It is not clear whether these documents were altered by the applicant or a city reviewer. Certificates of Occupancy were issued for each of the buildings in 1981, but do not list the number of units in each. There are no records of subsequent building permits for the site that would suggest subsequent reconfiguration of residential units. Each of the buildings contains 24 one-bedroom apartments, for a total of 121 units in the current PUD (inclusive of the single-family residential structure). The existence of these inconsistencies supports the applicant’s position that an error was made when the updated PUD 180 was adopted in 1985 without correcting the unit count to reflect the actual number of units built on the site four years prior.

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

Neighborhood Context Description

The requested S-MU-3 zone district is within the Suburban Neighborhood Context. This district is characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks. Multi-unit building forms are typically separated from single-unit residential and consist of Town House and occasional mid- and high-rise Apartment building forms. The proposed rezoning of this property to S-MU-3 is consistent with the neighborhood context description, and the existing improvements to the property generally conform to the expectation of low-rise apartment forms.

Zone District Purpose and Intent

The requested rezoning is consistent with the General Purpose of Residential Districts because the zone district will promote and protect residential neighborhoods as it will provide certainty and stability to neighbors by accommodating reinvestment in this existing development and possible future redevelopment that furthers the district’s goals (DZC 3.2.2.1). The Specific Intent of the S-MU-3 is defined by DZC Section 3.2.2.2.I as follows: “S-MU- is a multi unit district and allows suburban house, duplex, town house, garden court and apartment building forms up to 3, 5, 8, 12, 20 stories in height.” The requested rezoning is consistent with the Specific Intent of the S-MU-3 zone district because the site and the immediate context are characterized by multi units uses with existing apartment buildings.

Planning Board

During a hearing held on Wednesday, June 7, the Planning Board voted unanimously to recommend approval of this rezoning application.

Land Use, Transportation and Infrastructure Committee

During a hearing held on Tuesday, June 27, the Land Use, Transportation and Infrastructure Committee voted unanimously to recommend approval of this rezoning application.

Attachments

1. Application
2. Existing PUD 180