



TO: Denver City Council
FROM: Jason Morrison, Senior City Planner
DATE: September 10th, 2020
RE: Official Zoning Map Amendment Application #2019I-00243

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00243.

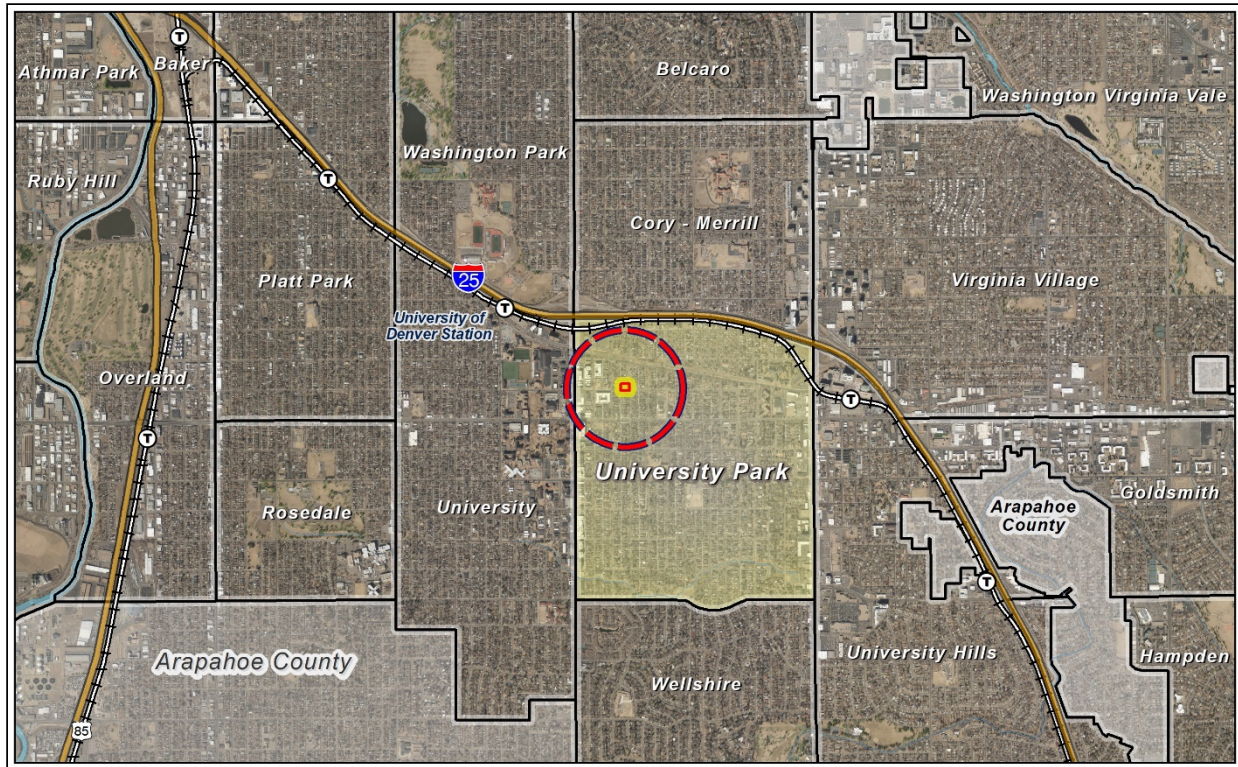
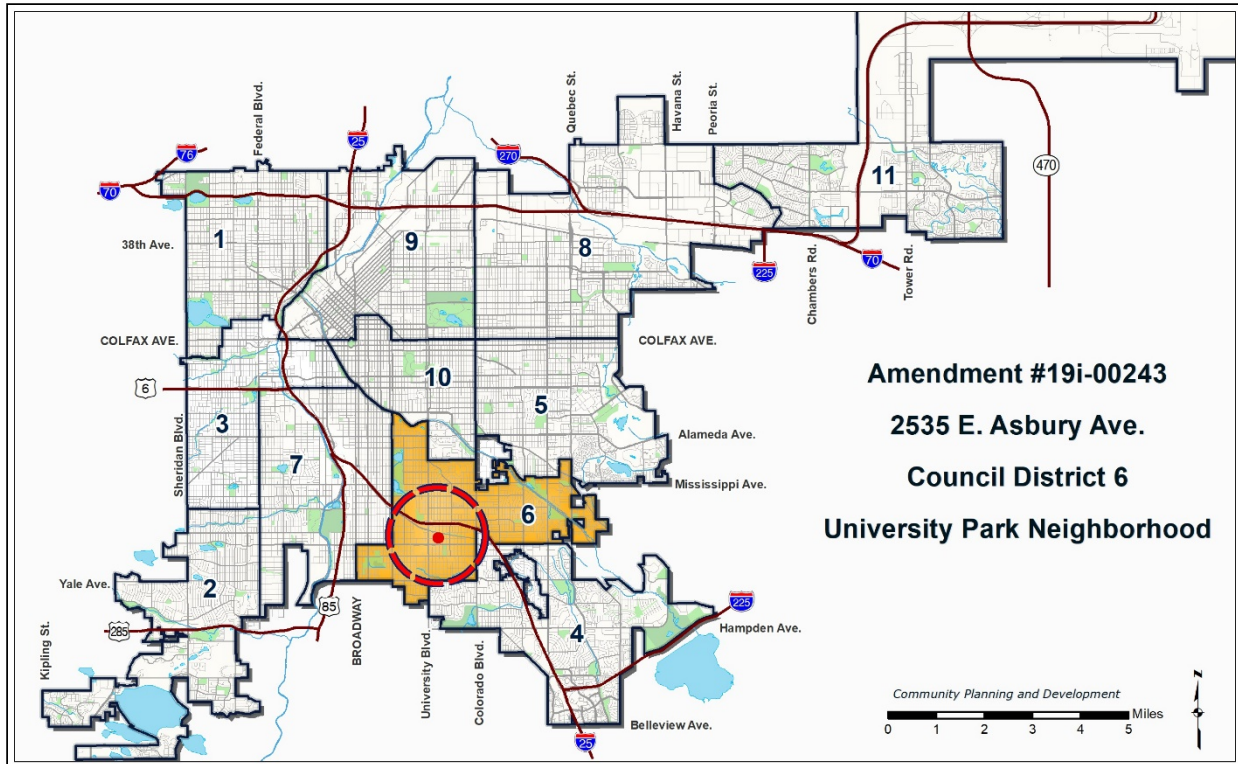
Request for Rezoning

Address: 2535-2545 E. Asbury Avenue
Neighborhood/Council District: University Park Neighborhood / Council District 6
RNOs: Southside Unified, University Park Community Council, Inter-Neighborhood Cooperation (INC)
Area of Property: 15,000 square feet or 0.34 acres
Current Zoning: PUD 278
Proposed Zoning: E-MU-2.5
Property Owner(s): 2535 Asbury Partners, LLC.
Owner Representative: John Glaser

Summary of Rezoning Request

- The subject site is located in the University Park neighborhood on the north side of East Asbury Avenue between South Columbine Street and South Clayton Street.
- The subject site is currently zoned PUD 278, which was established in 1990 and is a custom zone district from Former Chapter 59 zoning that allows for one multi-unit apartment building and one single-unit building for a maximum number of 21 dwelling units with a maximum height of two-stories and 20 feet maximum height. All other uses in the R-1 (Single-Unit Detached Dwellings, Low Density) zone district are permitted.
- The property owner is requesting a rezoning to correct a discrepancy between the number of dwelling units permitted by the PUD (21 units) and the actual number of units in the development (23 units). The discrepancy was discovered after the property owner purchased the property and 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 PUD 278, and that a rezoning would be needed to correct this noncompliance issue.
- The **E-MU-2.5** (Urban Edge, Multi-Unit, 2.5 story) zone district is found in the Urban Edge neighborhood context and is a multi-unit district allowing suburban house, urban house, duplex, tandem house, garden court, townhouse and apartment forms where all primary building forms are not taller than 2.5 stories in height. Additional details of the E-MU-2.5 zone district can be found in Article 4 of the Denver Zoning Code.

Existing Context





The subject site is located in the University Park neighborhood on East Asbury Avenue between South Columbine Street and South Clayton Street. The subject site sits between an area primarily composed of multi-unit residential buildings to the west, and single- and two-unit residential to the east and south.

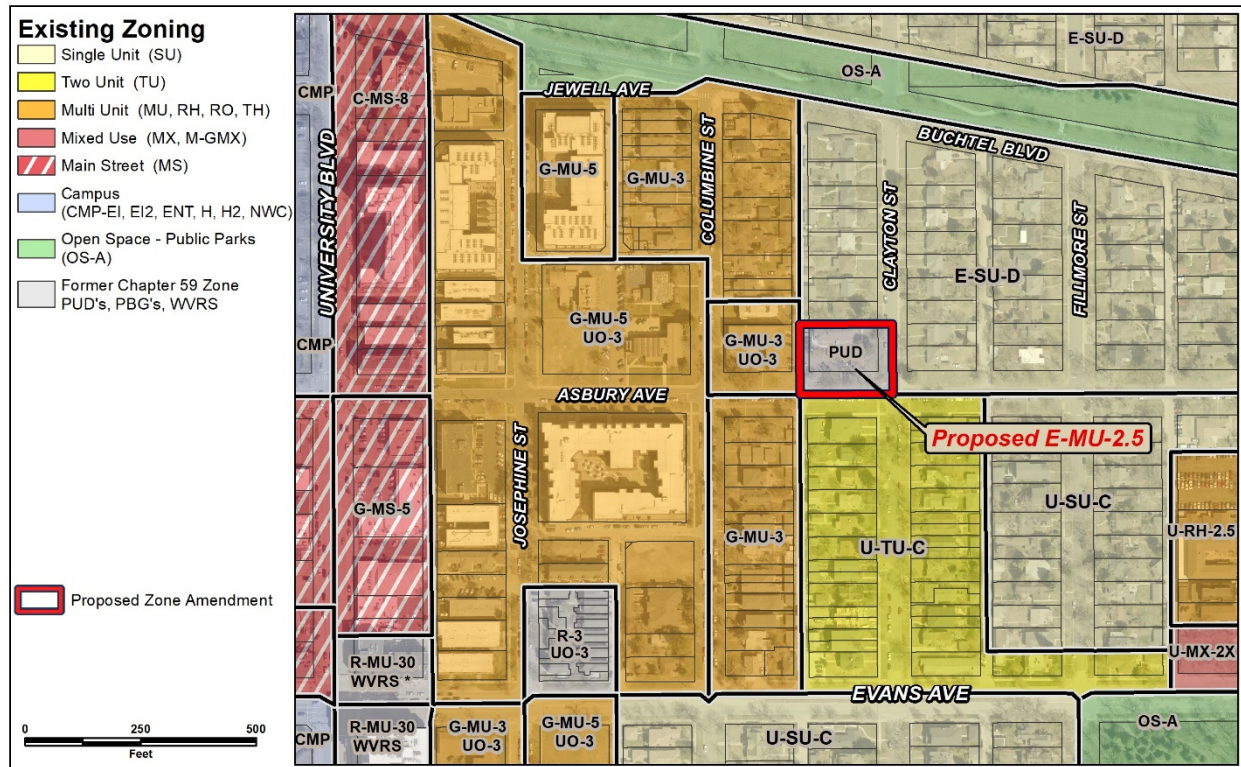
The subject site is less than one block south of an open space trail along Buchtel Boulevard (Prairie Park) and less than ¼ mile from Observatory Park to the south. The University of Denver campus is located approximately ¼ mile to the west. The subject site is more than ½ mile from the University of Denver Light Rail Station which runs along Interstate 25. Additionally, the subject site is served by high-capacity bus transit two blocks to the west (University Boulevard) and one block to the south (Evans Avenue).

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	PUD 278	Multi-Unit, Single-Unit Residential	One, two-story apartment and one, single-unit dwelling with a moderate setback from East Asbury Avenue	Generally regular grid of streets interrupted to the north by Buchtel Boulevard and Interstate 25
North	E-SU-D	Single-Unit Residential	One-story residential with a moderate setback from South Clayton Street	
South	U-TU-C	Two-Unit Residential	Two-story duplex with a moderate setback from South Clayton Street	

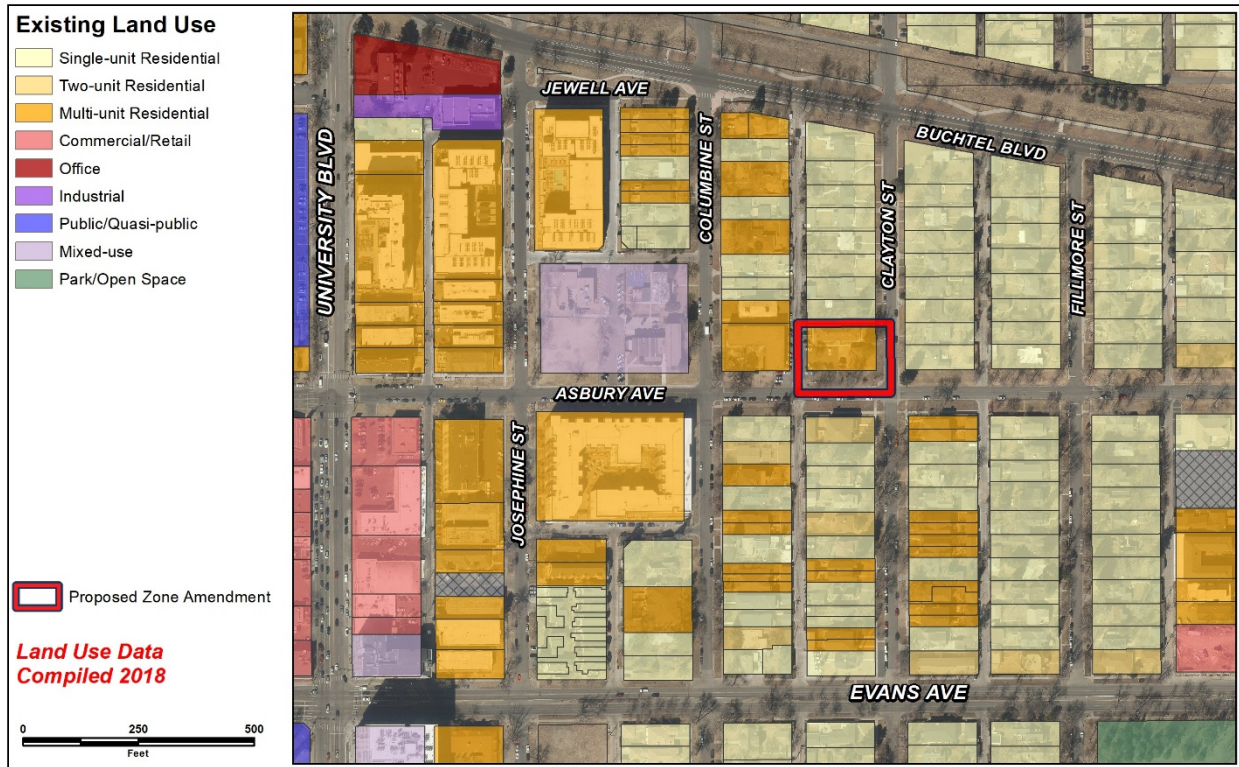
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
West	G-MU-3, UO-3	Multi-Unit Residential	Three-story apartment with moderate setback from South Clayton Street and East Asbury Avenue	Block sizes and shapes are generally consistent and rectangular. Rear-loaded garages with alleys.
East	E-SU-D	Single-Unit Residential	One-story residential with a moderate setback from South Clayton Street	

1. Existing Zoning



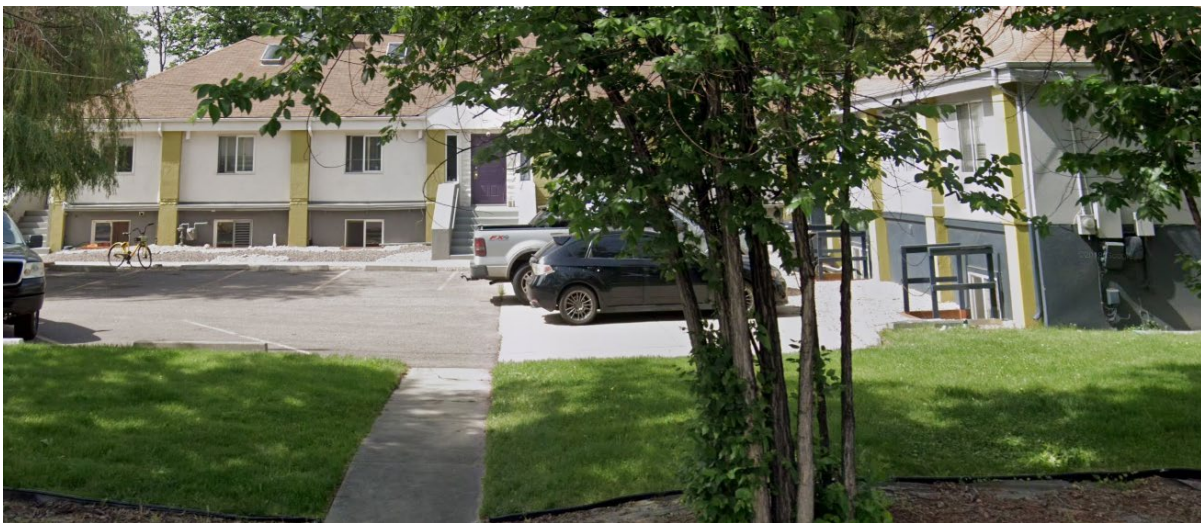
The subject site is currently zoned PUD 278, which is a custom zone district from Former Chapter 59 zoning and allows for one, multi-unit building and one, single-unit building for a maximum number of 21 units with a maximum height of two-stories and 20 feet maximum height. Rooftop features including antennas, chimneys, solar equipment and AC units may exceed this height limitation by five feet maximum. Within the PUD, maximum building coverage (including garages and accessory structures) can't exceed 23.9%. Front, rear, and side setbacks are specified within the PUD and permitted encroachments into the minimum setbacks must conform to those allowed in the Former Chapter 59 R-3 (Multi-Unit Dwellings, High Density) zone district.

2. Existing Land Use Map



3. Existing Building Form and Scale

All images are from Google Street View.



Subject site facing north from East Asbury Avenue.



One-unit residential east of the subject site, facing east from South Clayton Street.



Two-unit (2-story) residential south of the subject site, facing west from East Asbury Avenue.



Three-story apartments west of the subject site (across alley separating South Columbine Street and South Clayton Street), facing east from South Columbine Street



One-unit residential north of the subject site, facing west from South Clayton Street

Proposed Zoning

The requested E-MU-2.5 zone district is found in the Urban Edge neighborhood context. It is a multi-unit zone district that allows for residential uses in a variety of building forms including: Urban House, Suburban House, Duplex, Tandem House, Town House, Garden Court and Apartment primary building forms. Block sensitive setbacks apply to all building forms in the E-MU-2.5 zone district and all allowed primary building forms may attain a maximum height of 35 feet with increased lot widths. All Primary building forms allow up to 2.5 stories, except the Apartment building form. The Apartment building form in the E-MU-2.5 zone district allows a maximum height of two stories. Minimum vehicle parking requirements in the E-MU-2.5 are generally the same or lower than the minimum vehicle parking requirements in the existing PUD 278. For additional details of the requested zone district, see Article 4 of the Denver Zoning Code.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized here:

Design Standards	Existing PUD 278	Proposed E-MU-2.5
Primary Building Forms Allowed	Single-Unit, Multi-Unit	Urban House, Suburban House, Duplex, Tandem House, Town House, Garden Court and Apartment
Height in Stories / Feet (max)	2 stories / 20’*	2.5 stories / 35’**
Primary Street Build-To Range (min)	N/A	70% (Town House)
Minimum Zone Lot Size/Width	N/A	4,500sf – 9,000sf /35’-75’**
Primary Street Setbacks (min)	10’	Block Sensitive
Building Coverages (max)	23.9%	37.5%-50%**

*Allowable encroachments up to 5 feet maximum

**Standards vary by building form and zone lot width

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:

Assessor: Approved – No Comments

Asset Management: Approved – No Comments

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – See Comments Below

1. DDPHE concurs with this proposed rezoning and is unaware of environmental concerns that should be considered for this rezoning.
2. 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, DDPHE 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.
3. 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.
4. 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).
5. Scope & Limitations: DDPHE performed a limited search for information known to DDPHE 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.

Denver Parks and Recreation: Approved – No Comments

Public Works – R.O.W.- City Surveyor: Approved – No Comments

Development Services – Project Coordination: Approved – No Response

Development Services - Fire Protection: Approved – No Comments

Development Services – Transportation: Approved – See Comments Below

1. DES Transportation approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, traffic studies and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process. The results of any traffic studies may require the construction of off-site mitigation or may limit the proposed density of the project.

Development Services- Wastewater: Approved – See Comments Below

1. Denver DOTI/ROWS/DES-WASTEWATER has no objection to the map amendment; however, applicant should be under notice that Denver Wastewater will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity and access (easements may be necessary). 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.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	5/26/2020
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, registered neighborhood organizations, and property owners:	6/30/2020
Planning Board voted unanimously to recommend approval:	7/15/2020
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood	7/21/2020

organizations, at least ten working days before the meeting:	
Land Use, Transportation and Infrastructure Committee moved the bill forward:	8/4/2020
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	8/24/2020
City Council Public Hearing:	9/14/2020

- **Registered Neighborhood Organizations (RNOs):** At the time of this staff report, staff has received one letter of support from the University Park Community Council RNO. A copy of this letter is attached to this staff report.
- **Other Public Comment:** At the time of this staff report, staff has received two letters in support and two letters in opposition. The letters of opposition express concerns about limited parking, falling home values and increased density. Copies are attached to this staff report.

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 currently apply to this property:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*
- *University Park Neighborhood Plan (2007)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies. The following strategies apply from the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments* (p. 28).
- Equitable, Affordable and Inclusive Goal 2, Strategy A – *Create a greater mix of housing options in every neighborhood* (p. 28).

The requested E-MU-2.5 zone district will allow a mix of housing options, including Urban House, Suburban House, Duplex, Tandem House, Town House, Garden Court and Apartment primary building forms. The subject site is located blocks away from high-capacity transit along South University Boulevard and East Evans Avenue and will allow for multi-unit residential just over ½ mile from the University of Denver Light Rail station served by the Regional Transportation District. The request is therefore consistent with the above strategies in the Equitable, Affordable and Inclusive vision element.

The following strategies apply from the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population* (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).

In addition to offering a mix of housing types for a diverse population, including student housing, the zone district will also apply current, form-based zoning code standards, ensuring quality development appropriate for the neighborhood. The proposed zone district provides a valuable transition between existing high-density multi-unit residential to the west, and single- and two-unit residential to the south and east. Furthermore, all allowed primary building forms must comply with block sensitive setbacks which adhere to the existing neighborhood pattern. The request is therefore consistent with the strategies in the Strong and Authentic Neighborhoods vision element.

Similarly, the application is also consistent with the following strategies in the Environmentally Resilient vision element:

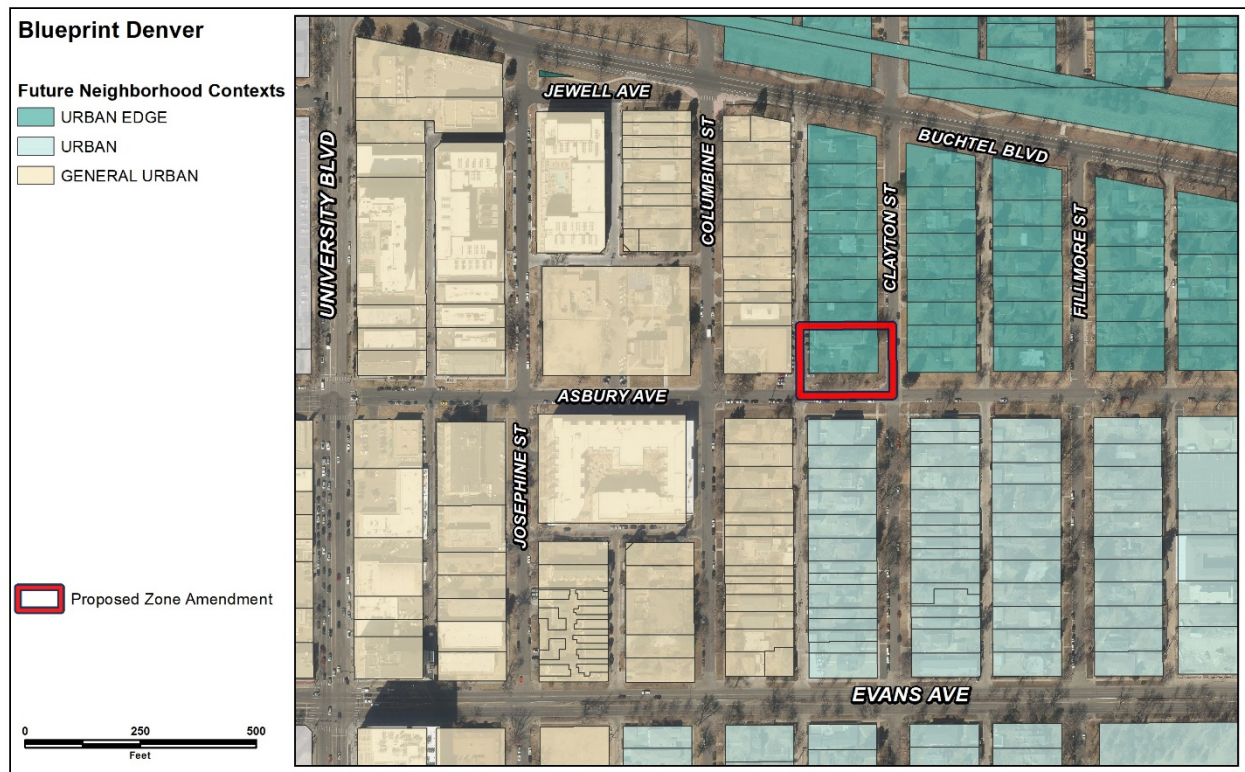
- *Environmentally Resilient Goal 8, Strategy A – Promote infill development where infrastructure and services are already in place* (p. 54).
- *Environmentally Resilient Goal 8, Strategy C – Focus growth by transit stations and along high- and medium-capacity transit corridors* (p. 54).

This site is an infill location where infrastructure is already in place allowing residents to live, work and play in the area. Similarly, the proposal focuses any future growth that results from this rezoning close to high-capacity transit (South University Boulevard and East Evans Avenue). Compact infill development near transportation options and existing infrastructure assists in improving public health indicators while reducing water usage. Rezoning to facilitate redevelopment of this site advances the Environmentally Resilient strategies of *Comprehensive Plan 2040*.

Blueprint Denver

Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city’s land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low Residential area within the Urban Edge neighborhood context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context

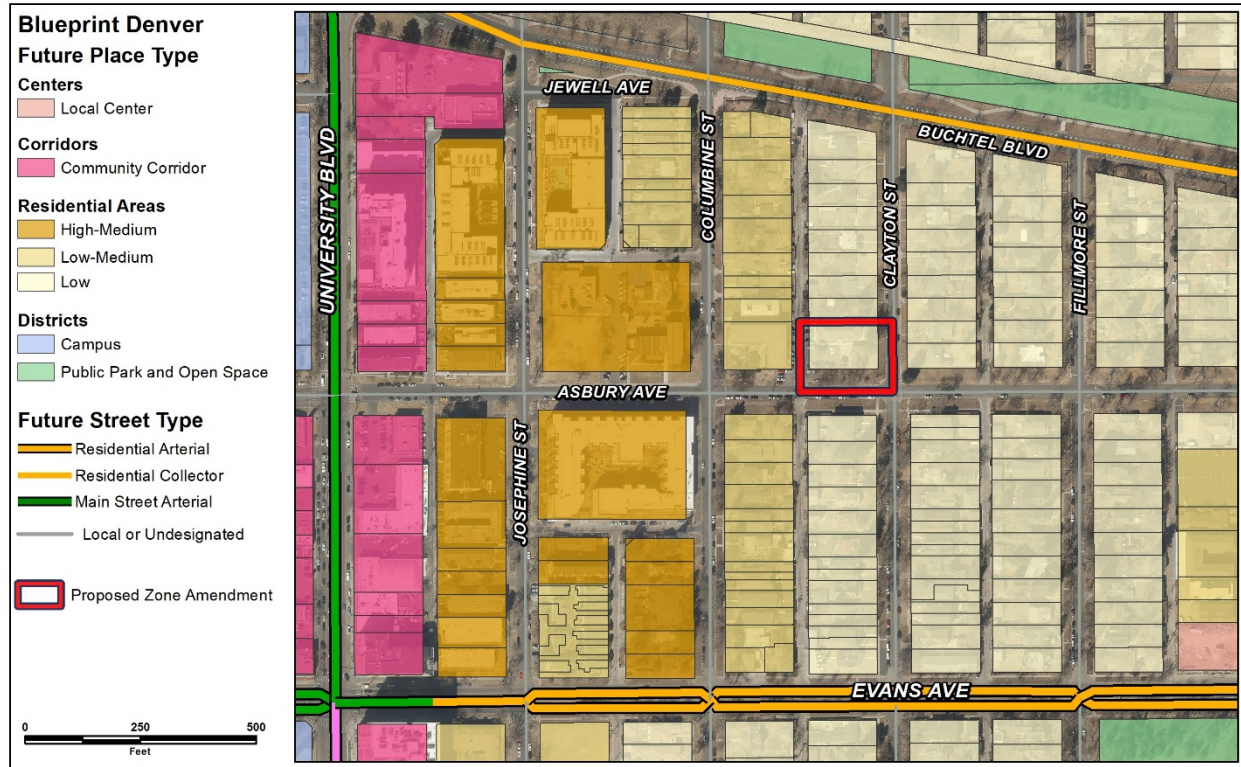


The subject site is shown on the context map as an Urban Edge neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). *Blueprint Denver* describes the Urban Edge neighborhood context as follows: “Residential areas generally are single-unit and two-unit uses, with some low-scale multi-unit embedded throughout. Commercial nodes are generally found along key corridors or at intersections. Block patterns are generally a mix of suburban and urban elements—streets may be rectangular or curved and alleys are sometimes present. Multi-unit buildings and commercial nodes are generally low-scale” (p. 206).

The proposed E-MU-2.5 zone district is a multi-unit zone district and part of the Urban Edge neighborhood context and is intended, “to promote and protect residential neighborhoods within the character of the Urban Edge neighborhood context” and “the building form standards, design standards and uses work together to promote desirable residential areas” (DZC 4.2.2.1). The proposed rezoning to

E-MU-2.5 is appropriate and consistent with the Urban Edge neighborhood context plan direction and will ensure quality development appropriate for the University Park neighborhood.

Blueprint Denver Future Places



Within the Urban Edge Neighborhood Context, the subject property is categorized as a Low Residential future place with a land use and built form defined by *Blueprint Denver* as “predominately single- and two-unit uses on small or medium lots. Buildings are generally up to 2.5 stories in height” (p. 214).

The residential emphasis and the 2- to 2.5-story height maximums of the proposed E-MU-2.5 zone district are consistent with this plan direction. However, the E-MU-2.5 zone district is a multi-unit district with a variety of residential building forms including single, two-unit, and lower-scale multi-unit residential. *Blueprint Denver* acknowledges that since the Future Places map is a citywide map, “the boundaries of the map should be interpreted with limited flexibility, especially at edges, if the request furthers the goals of *Blueprint Denver* and is consistent with the overall intent of the places map” (p.66). As depicted in the map above, the residential alley serving South Clayton Street and South Columbine Street acts as the dividing edge between the Low Residential and the Low-Medium Residential classification. This rezoning request also furthers many of the goals in *Blueprint Denver* via the following policies:

- Encouraging higher-density development in transit-rich areas (General Land Use & Built Form Policy 01)
- Rezoning properties from Former Chapter 59 Zoning (General Land Use & Built Form Policy 03)

- Diversifying housing options by exploring opportunities to integrate missing middle housing into low residential areas (Housing Land Use & Built Form Policy 02)
- Incentivizing the preservation of structures that contribute to the established character of an area (Design Quality and Preservation Policy 06)

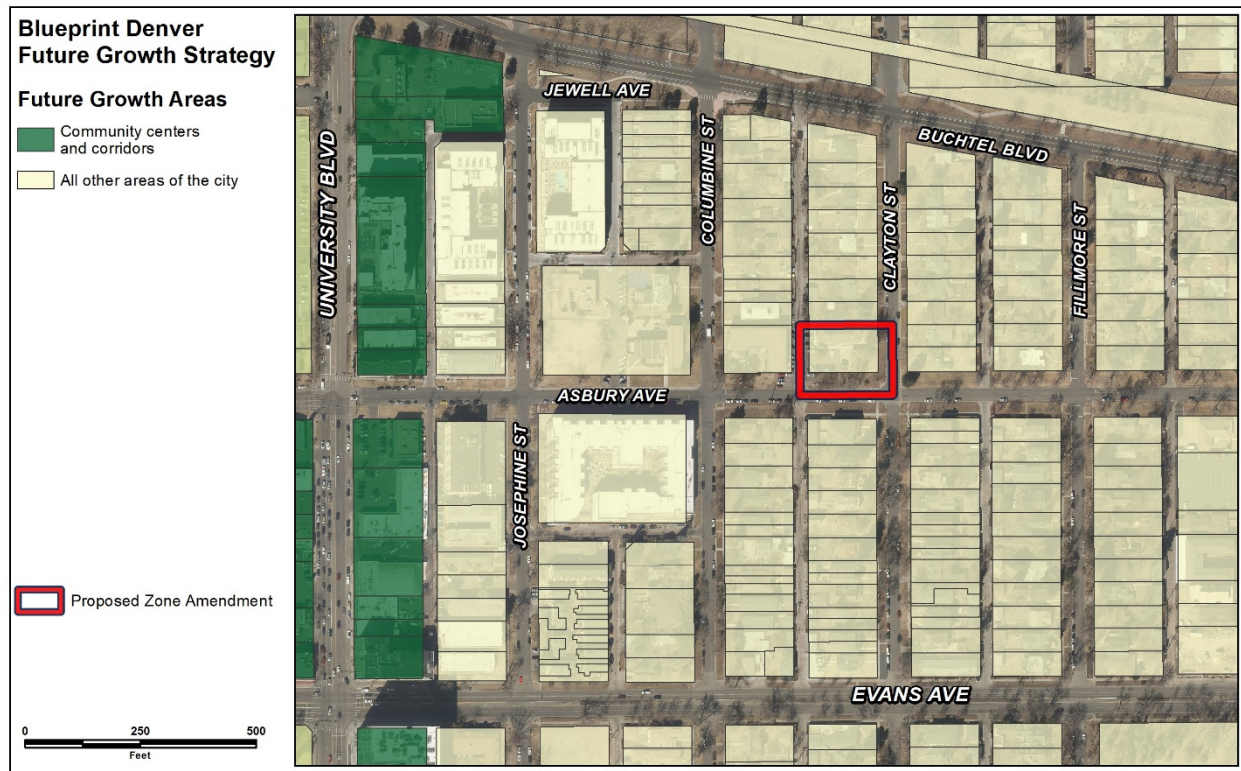
Furthermore, the creation of PUD 278 in the 1990's enabled a small-scale multi-unit use at this location and a transition to the E-MU-2.5 zone district will not disrupt the existing character along East Asbury Avenue. Any new development that may result from this rezoning will comply with building form standards, design standards, and uses that work together to promote safe, active, pedestrian-scaled residential areas (DZC 4.2.2.1). Therefore, the request to E-MU-2.5 is consistent with the overall intent of the Future Places map, and the E-MU-2.5 zone district is the closest district available that balances plan direction and the existing condition.

Street Types

Blueprint Denver street types work with future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies South Clayton Street and East Asbury Avenue as undesignated local streets. Local streets “are designed for the highest degree of property access and the lowest amount of through movement” (p. 154). These streets contain primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses.

The proposed E-MU-2.5 zone district is consistent with this plan direction for this location as, “multi-unit residential uses are located along local streets, arterials and main streets” (DZC 4.1.1). In addition, block sizes and shapes within the E-MU-2.5 district are consistent and include detached sidewalks, tree lawns, and landscaping in the front setback to promote pedestrian and bicycle activity.

Growth Strategy



Blueprint Denver's growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is located within "All Other Areas of the City", which are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). The proposed map amendment to E-MU-2.5 will enable compatible residential growth for this location.

Strategies

Blueprint Denver provides recommendations related to properties that retained zoning from the Former Chapter 59 zoning code. Land Use & Built Form: General Policy 3, Strategy B, says, "Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code" (p. 73). That same policy also speaks to custom zoning such as PUDs; Strategy B says, "Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area" (p. 73). Therefore, the proposed rezoning to come from custom zoning under Former Chapter 59 to a standard zone district such as E-MU-2.5 under the DZC is consistent with *Blueprint Denver*.

Small Area Plan: University Park Neighborhood Plan

The University Park Neighborhood Plan was adopted by Denver City Council in 2007 and applies to the subject site. The format of the University Park Neighborhood Plan includes general framework plan recommendations that apply throughout the planning area as well as subarea recommendations that apply in smaller subareas.

General Framework

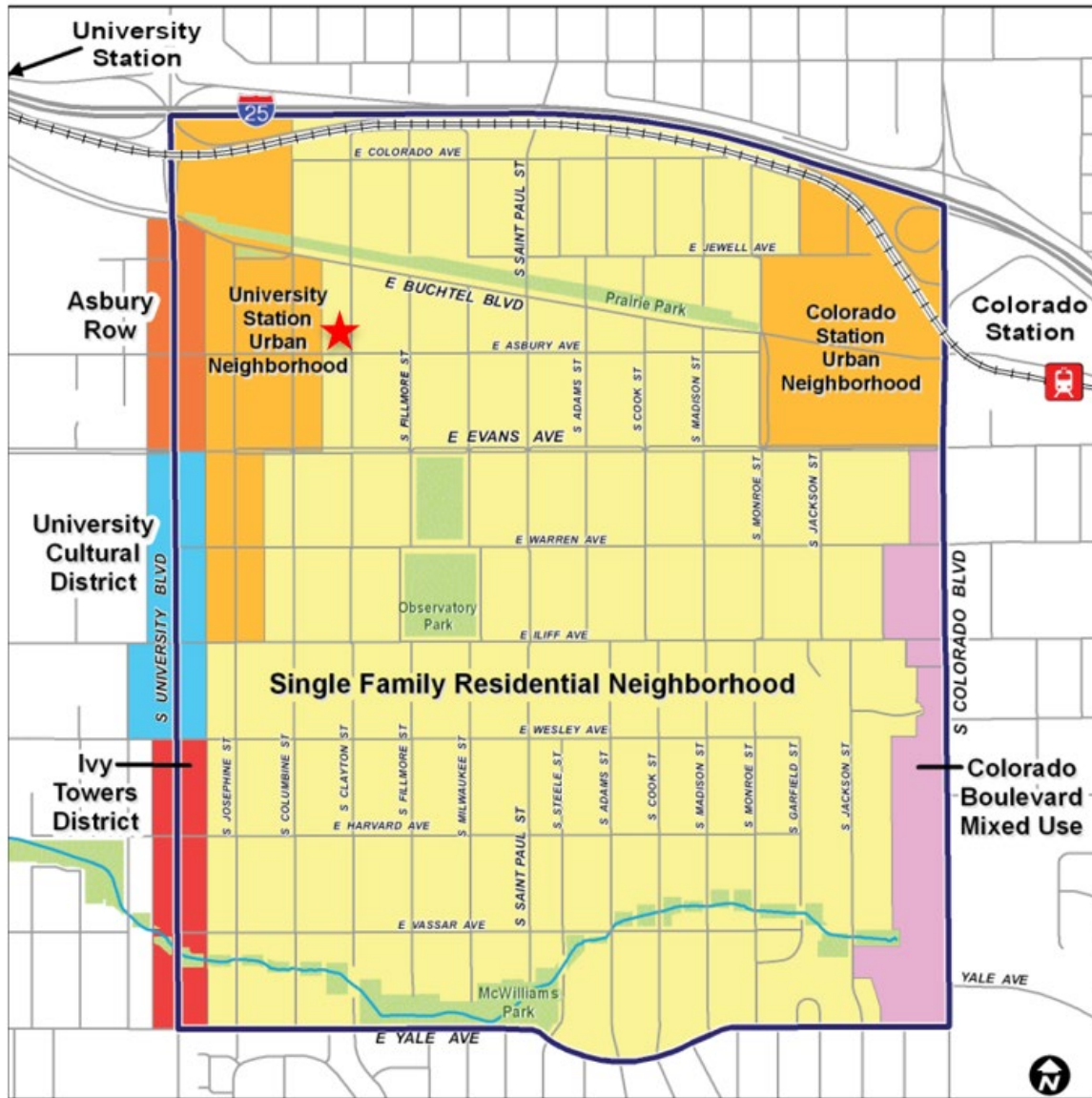
The overarching theme of the University Park Neighborhood Plan is to create and nurture a community that accommodates a wide variety of uses and people in an environment that enhances the quality of life for residents and the vitality businesses (p.51). Urban Design & Land Use goals in the plan address the elements of existing community structure, public spaces (including building form, orientation and character) and articulate desired future land use and development patterns. The proposed rezoning to E-MU-2.5 is consistent with the following Urban Design & Land Use Goals:

- **Goal 2: Residential Neighborhood Character Stability:** Preserve the single-family nature of University Park's residential neighborhood and respect the urban design and the architectural character of established and preferred residential forms.
- **Goal 4: Diverse Housing Options in Appropriate Locations:** Diversify the mix of housing types near transit amenities to allow residents to age in place, live without the daily use of a car and accommodate the housing needs of empty-nesters, students, young professionals and families.

The intent of the E-MU-2.5 zone district is to promote and protect residential neighborhoods within the character of the Urban Edge 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 (DZC 4.2.2.1). The subject site sits on the edge of multi-unit uses to the west and single- and two-unit uses to the east and will serve as a valuable transition between these residential building forms. The subject site contains a previously established multi-unit use and a rezoning to E-MU-2.5 will not change the character in this area. Furthermore, rezoning out of the Former Chapter 59 zoning will apply modern zoning code standards which will ensure quality infill development and streetscape that is appropriate for the surrounding context if the site is ever redeveloped. Therefore, this rezoning is consistent with the general framework of the University Park Neighborhood Plan and the site will continue to provide a diverse mix of housing options near transit amenities and large activity centers.

Subarea Recommendations

The University Park Neighborhood Plan also organizes the neighborhood into subareas and provides recommendations for each of these smaller neighborhood areas. The subject site is in the Single-Family Residential Neighborhood subarea which is described as having predominately single-family homes with occasional duplexes interspersed. Buildings of one to two stories in height characterize the prevailing degree of development, and "any higher-intensity buildings should help to form a transition between the prevailing neighborhood pattern and an activity center" (p.63).



The proposed rezoning to E-MU-2.5 is consistent with the Single Family Residential Neighborhood subarea recommendations because the previously established small-scale multi-unit use will continue to provide an important transition between the prevailing neighborhood pattern of single- and two-unit to the east and south, and the higher-density activity center along University Boulevard/University of Denver to the west. The proposed E-MU-2.5 zone district is an appropriate zone district on the edge of this subarea and will encourage any development that results from this rezoning to be consistent with the subarea's urban design & land use recommendations by reinforcing residential character and maintaining the established scale of primary building forms.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to E-MU-2.5 will result in the uniform application of zone district building form, use, and design regulations on this site as they are applied to any other site zoned E-MU-2.5.

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 also facilitate housing density near a mix of uses and transit amenities, which have been linked to increased physical activity,¹ decreased obesity,² and decreased driving.³

4. Justifying Circumstance

The application identifies changed or changing conditions as the justifying circumstance 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. Such change may include: c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The zoning on the subject site is a Former Chapter 59 PUD. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance. Additionally, rezoning out of the existing PUD 278 will provide more flexibility to modify the site to accommodate changing conditions in the neighborhood. Finally, a rezoning on this property will bring the property into conformance with the Denver Zoning Code by correcting the previously stated discrepancy between the number of units permitted by the PUD (21 units) and the actual number of units in the development (23 units).

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

The Denver Zoning Code describes the Urban Edge context as a mix of elements from both the Urban and Suburban Neighborhood contexts with primarily single and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are also embedded in residential areas. Multi-unit building forms are typically the Row House, Garden Court, Town House or Apartment forms. Multi-unit residential and commercial uses are located along local streets, arterials and main streets. The neighborhood context consists of a regular pattern of block shapes surrounded by a grid or modified grid street system, and a mixed presence of alleys. Block sizes are consistent and include attached, detached and non-existent sidewalks. The Urban Edge context is characterized by low scale buildings except for some mid-rise commercial and mixed-use structures, particularly at nodes or along arterial

¹ Ewing, R., and R. Cervero. 2010. "Travel and the Built Environment: A Meta-Analysis." *Journal of the American Planning Association* 76 (3): 265-94

² Ewing, R., T. Schmid, R. Killingsworth, A. Zlot, and S. Raudenbush. 2003. "Relationship between Urban Sprawl and Physical Activity, Obesity, and Morbidity." *American Journal of Health Promotion* 18: 47-57.

³ Frumkin, Frank, and Jackson 2004; Fran et al. 2006; Ewing et al. 2008; Stone 2008.

streets. There is typically reliance on automobiles with low to medium access to the multi-modal transportation system. (Division 4.1)

The proposed E-MU-2.5 zone district is consistent with the neighborhood context description and appropriate for this location because it is a multi-unit district allowing a variety of building forms, compatible height, and building form/design standards. This East Asbury Avenue location is appropriate for the Urban Edge neighborhood context because the uses, lots, and street and block patterns in the area are consistent with the neighborhood context description. The building form standards and uses work together to promote safe, active, pedestrian-scaled residential areas.

In addition to allowing the above building forms, the specific intent of the residential districts is, “to promote and protect residential neighborhoods within the character of the Urban Edge 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.” (DZC 4.2.2.1.A). The E-MU-2.5 zone district allows urban house, detached accessory dwelling unit, duplex, tandem house, row house, garden court, town house and apartment building forms up to two and a half stories in height depending on building form” (DZC 4.2.2.2.A).

The proposed rezoning is consistent with the General Purpose and Specific Intent as it will encourage multi-unit residential of up to 2.5 stories within the character of the Urban Edge neighborhood context. This direction is consistent with the existing uses in the neighborhood. The site is located in an area where low-scale multi-residential uses are envisioned to act as a transition between bustling activity centers and prevailing residential areas.

Attachments

1. Existing PUD
2. Application
3. Public Comment

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

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

Application Number

3910

*With
Steps*

Date Submitted
Rev: 12-1-89
1-16-90

Fee
\$600.00

1. Applicant
Oldham Planning & Design
Associates, Inc.

Contact: *Karen Henry*

2. Address
158 Fillmore, Ste. 200
Denver, Colorado 80206

3. Phone No.
322-8266

4. Interest
 Owner(s)
 Agent
 Other

5. Owners of Property or Properties
(If not the Applicant)
Sun Savings & Loan Assoc.
A Colorado Corporation

6. Address
11500 Sun Way
P.O. Box 1089
Parker, Colorado 80134

7. Phone No.
841-2241

8. Location of Proposed Change
2535 and 2545 E. Asbury Avenue, Denver, Colorado

9. Legal Description of Property: (If Legal Description is lengthy, please attach additional sheet.)
Lots: 23 through 26 Block: 6
Addition: University Park - Amended Map.
City and County of Denver,
State of Colorado

10. Area of Subject Property, Sq. Ft. or Acres
15,900 s.f. (.365 acres)

11. Present Zone
R-1

12. Proposed Zone
PUD

13. Describe briefly the nature and expected effect of the proposed amendment. Be sure to include an explanation of the legal basis for the proposal: either (a) the error in the map as approved by city council, or (b) the changed or changing conditions making the proposed amendment necessary.

This property was built in the 1940's as a rooming and boarding house prior to the property being zoned R-1. The property has been operated as a nonconforming use, which was registered March 9, 1959 in book 8322 page 26, in the R-1 district. Located in close proximity to the University of Denver campus, the property has over the years housed primarily students from the University. However, times have changed and rooming and boarding without the ability for some type of minor cookery is becoming less appealing or economical for students and other tenants. The rezoning of this property will provide a more complete living environment while being responsive and compatible with the surrounding neighborhood. The adjacent zoning includes R-2 to the northwest and south of the property and R-3 directly to the west. R-1 is located to the north and east of the property. A rezoning to PUD would remove the nonconforming status of the property and respond to change in conditions as well as the change in the market creating efficiency apartment type dwellings.

14. Use and development proposed for the property to be rezoned.

This PUD proposes that the uses and development of this property basically remain the same. The existing uses which this PUD addresses directly include a single family residence and an efficiency apartment dwelling building. Other uses as listed on page 2 are permitted, but will require no change to the existing facilities. This PUD changes the use of the main multi-unit building from rooming and boarding to efficiency dwellings. Previously no cooking was provided for in the units. The intent is to allow for the addition of microwave ovens in the units allowing for eating/cooking in the units without the hazard of fire. This proposed change creates a more compatible use with the surrounding neighborhood and creates a more viable, safe living situation. The PUD outlines the intent for the continued use of the property as dwelling units and establishes the criteria and restrictions that are in conformance with the surrounding environment and the City of Denver Code.

5. Exhibits Submitted, Number and Kind

16. Applicant's Signature

Karen Z. Henry

Zoning Administration

1. Schedule
 - a. Date of pre-application conference October 5, 1989
 - b. Submittal date of preliminary application November 3, 1989
 - c. Submittal date of completed application December 1, 1989
 - d. Planning Board or Planning Office hearing date January 10, 1990

Applicant requests a Planning Office hearing instead of the standard Planning Board hearing yes [X] no []

Applicant has met with and discussed PUD proposal with neighborhood association(s) yes(X) no() and affected adjacent residents yes(X) no()

2. a. Maximum gross floor area* for each proposed use. Explain or define the uses. Terms like "retail" or "light industrial" must be defined in detail. To do this the applicant should refer to the various uses listed under specific zone districts in the Zoning Code, and should choose a title which accurately describes the proposed use.

<u>Single unit dwelling, multi unit dwelling use</u>	_____	sq ft maximum
<u>rooming & boarding, parish house, monastery, use</u>	_____	sq ft maximum
<u>convent or similar, residence for the elderly, use consular residence</u>	_____	sq ft maximum
TOTAL F.A.R. approx. .62:1	TOTAL	* SQ FT MAXIMUM
(Floor Area Ratio, gross floor area divided by site area) **	Existing FAR: .62:1	

* Future uses under this PUD shall not exceed the the existing square footage of approximately 10,000 s.f.

For residential uses
 Maximum number of dwelling units: 21
 Density (ratio of dwelling units per acre): 57 du ac

For non-residential uses F.A.R. = n/a

*Note: Gross floor area does not include the floor area of parking garages or basement areas used for storage or utilities. The Zoning Code definition of gross floor area shall be used in determining floor areas in this project.

**Note: Land area to be dedicated for public streets should not be included in the site area.

Note: The use of the terms "Article" or "Section" refer to portions of the Revised Municipal Code of the City and County of Denver.

The space below may be used to provide additional information.
 Note: Any future redevelopment other than those uses listed above or requiring additional square footage or new structures not developed under the existing parameters will require a new PUD.

P.U.D. at 2535 & 2545 E. Jury Ave.
Address

- b. Land coverage by building and impervious surfaces:
Maximum building coverage
3800 sq. ft. = 23.9 % of site area.
Maximum area of drives & parking
3800 sq. ft. = 23.9 % of site area.
Approximate area of walks, patio and
paved recreation areas
660 sq. ft. = 4.2 % of site area.
Approximate area of other impervious surfaces:
0 sq. ft. = 0 % of site area.
Total impervious area
8260 sq. ft. = 52 % of site area.

- c. Landscaped area and/or permeable areas
Lawn, planting beds and other landscaped
areas with permeable surface (this
area consists of organic materials)
minimum 6060 sq. ft. = 38.1 % of site area.
Others (Gravelled or other areas with
permeable surface
approximate 1580 sq. ft. = 9.9 % of site area.
Total area 7640 sq. ft. = 48 % of site area.
(minimum)

- d. Project area totals: (totals of "b" and "c" above)
Landscaped areas (permeable surfaces) 7640 sq. ft.
Building and impervious surfaces 8260 sq. ft.
Total site area 15,900 sq. ft.
(this total must equal the site area listed on page 1)

- e. Setbacks: The minimum setbacks for buildings (excluding fences and walls) are shown on the District Plan. Encroachments are permitted in these setback areas as regulated by Sec. 59-179 (R-3 zone). The minimum spacing between buildings and other important spacing requirements are shown on the District Plan. Official Parkway setback requirements for this street are n/a feet for structures and n/a for signs.
- f. The maximum height of structures shall be 2 stories which shall not exceed a total of approx. 20* feet. Rooftop features (solar collectors, antennas, chimneys, flues, vents, air conditioning equipment) may exceed this height limit by 5 feet. Flag poles may exceed these limits. The height of a building shall be determined by the vertical
* The height of the structures can not exceed that which is existing.

P.U.D. at 2535 & 2545 E. Asbury Ave.
Address:

distance from the highest point of a pitched roof or to the highest parapet around a flat roof to the average elevation of the corners of the proposed building at the finished grade.

If bulk plane restrictions are to be utilized, such restrictions shall conform to those of the n/a zone district.

g. Off-Street Parking: This project shall contain 19 parking spaces at the ratios shown in paragraph (4) below. The applicant shall abide by the requirements of Article V, Off-Street parking requirements: [] yes [X] no.

If not, the following information must be provided.

- (1) parking space dimensions:
 - compact space _____
 - standard space _____
- (2) Driving aisle minimum widths:
 - _____ 8'x18'
 - _____ 9'x19'
- (3) Ratio of compact spaces to standard spaces:
 - Angle of stalls: _____ 12'
 - _____ 90°
- (4) Ratio of parking spaces to building floor areas by use:
 - (a) Use: multiple unit dwelling Ratio: .95:1
 - (b) Use: _____ Ratio: _____
 - (c) Use: _____ Ratio: _____
 - (d) Spaces per dwelling unit _____ Ratio: _____
- (5) Parking provisions for disabled persons: 0

h. Off-Street Loading Spaces. The project will contain 0 off-street loading spaces. Applicant will provide such spaces in conformance with Article VI, Off-Street Loading Requirements: [] yes [X] no. If not, list the dimensions of the spaces provided.

i. Surface Drainage: The owner understands that the rules and regulations of the Wastewater Management Division will require certain design considerations and construction features to control surface water runoff. The site contains [], does not contain [X] a flood hazard area as identified by the Flood Insurance Rate maps as published by the Federal Emergency Management Agency. (For assistance, contact Wastewater Management at 295-1451)

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

k. Easements: Existing and/or proposed utility and/or access easements are shown on the District Plan or are located as follows: Water eastward from buildings to Clayton Street. Sewer connection south from residence to Asbury Street and west from multi unit building to alley.

P.U.D. at 2535 & 2545 Asbury Ave.
Address

1. Landscaping and buffering: Areas to be landscaped are shown on the District Plan. However, a more detailed landscaping plan may be required by the Planning Office as a part of this application. (A detailed landscape plan is required as a part of the site plan review phase after the rezone is approved.) If no plan is required with this application the following information must be provided: Landscaping is existing

- (1) Minimum number of trees ~~xxx~~ ~~to be planted~~ (existing) 12
- (2) Minimum size of trees at time of planting: n/a
- (3) Minimum percent of evergreen or coniferous trees: n/a
- (4) Minimum number of shrubs ~~xxx~~ ~~existing~~: n/a
- (5) Minimum size of container for planted shrubs: 9+ @ 250' hec

Please indicate if this information applies to the entire site including the parking area [X], or if it applies to the site without the parking area [x]. If the answer to the 2nd part of the preceding question is affirmative, will the applicant comply with the parking lot landscaping requirements of Sec. 59-585(10) yes [] no [xx].

All foliage shall be maintained in a healthy and growing condition. where street trees are proposed or required on the public right-of-way, such trees shall be installed in accordance with the requirements of the City Forester. (575-3053 or 575-2571). Number of street trees proposed: 0. If street tree plantings are required along a state highway contact the Highway Department for approval. (Phone no. 757-9514)

Fences and/or walls: The maximum height of fences and/or walls which may be built on the P.U.D. district boundaries and within the building setback areas shall be 6 feet. Such fences and/or walls shall be solid, view-obscuring ~~xxx~~, or open, view-permitting [X]. To provide the minimum screening such fences and/or walls shall be installed as shown on the District Plan. If certain fences and walls are required by the City to protect adjoining residents, and such fences and walls are deemed undesirable by adjoining residents, such requirement may be waived by the Director of Planning. The maximum height of fences and/or walls within the interior area of the P.U.D. district shall be 6* feet.

Earthen berms or mounds for screening or decorative purposes shall be installed (where?) No
Such features will [], will not [] be landscaped. The maximum height of such features shall be _____ feet. The minimum height shall be n/a feet.

m. Boat, camper, trailer and recreation vehicle storage will [] will not ~~xxx~~, be permitted on the property. If permitted, * Fences and walls shall be subject to Sec. 59-38(11) overheight fences and walls

the location of these storage areas will be shown on the District Plan. Solid fences or walls will [], will not [], be installed around such areas. The maximum height of such walls and fences shall be _____ feet and the minimum height shall be _____ feet.

- n. Dedications and Improvements. The owner understands that city ordinances and agency rules and regulations may require the dedication of additional street right-of-way and the construction of certain public improvements. If this proposal involves the vacation of certain public rights-of-ways for incorporation into the project area, such vacation must be approved prior to or at the public hearing on this proposal.
- o. External effects: (vibration, heat, glare, radiation, and fumes) These effects will be regulated by Sec. 59-133 (_____ zone). Reflective glass will [], will not [X] be used.
- p. The natural terrain of the site will [], will not [X] be restored.
- q. Utilities (public and private) serving the property are located (where?) Sewer from alley and Asbury. Water from Clayton St. and service is provided. U.S. West Communications service lines exist as well.

For information contact the following:
Denver Water Department 628-6100
Mountain Bell 896-6422
Public Service Company 571-3526
Wastewater Management 295-1451

- r. Sign controls. The project will be regulated by the following:
Sec. 59-537, Signs permitted in all districts
Sec. 59-538, Sign area measurement
Sec. 59-547, regulations for the R-1* district. If no specific regulations are referenced here, please indicate the following:
sign dimensions: 4'x6'
number of signs: 1
maximum sign area: 24 s.f.
Show ground sign locations on the District Plan Map.

s. Outdoor Storage of products, materials or Solid Waste will [X], will not [], be permitted on the property. If permitted, such storage is shown on the District Plan. Screening will [], will not [X], be provided. If so, such screening will consist of a solid wall or fence _____ feet high.

t. Current traffic volumes on streets in the project area should be shown on the "Existing Conditions Map". these volumes are *Except for the existing ground sign. If the other uses as permitted develop within the existing facilities on site, the existing ground sign must be removed and Sec. 59-547 shall apply to all signs.

P.U.D. at 2535 & 2545 E. Asbury Ave.
Address _____

available for major streets from the Traffic Engineering Division, or the Planning Office or may be estimated by the applicant based on a professional study. Streets for which no estimate is available should be noted.

Site generated traffic should be estimated and noted by applicant based on proposed project type, size, and other relevant factors. Ratios for estimating traffic are available from the Traffic Engineering (575-~~5781~~ ³⁹⁵⁸).

For projects with total daily site generated traffic of more than 200 vehicle trips, or for projects in areas with special problems, more detailed analysis may be required and the applicant should contact the Traffic Engineering Division at 575-3958 for further guidance.

Public Transportation. The nearest bus stop is located about 1500 feet from the property on Evans and University Blvd. Avenue or Street _____

- u. Future school sites will [], or will not be dedicated as a part of this project.
- v. Home Occupations: If residential dwelling units are contained within the project, home occupations will , will not [], be permitted. If so permitted, they will be regulated by Sec. 59-177(4) (R-3 zone).
- w. Temporary Uses: Uses by temporary permit will be regulated by Sec. 59-177(2) (R-3 zone).
- x. Accessory Uses: Will be permitted and regulated by Sec. 59-177(3) (R-3 zone).
- y. Interim Uses: Prior to the development of this project, the property will be used on an interim basis for Rooming and boarding and one single unit dwelling in the home on the property. The uses currently exist with parking on site. The use will continue until zoning approval. If unsuccessful, the uses will continue as a non-conforming use in an R-1, if the Board of Adjustment permits it. (describe in detail the following: size, height and location of all interim buildings, provision for parking, term of interim use, etc.)
- z. Phasing: Is the project expected to be developed in phases? [] yes. no. If yes, specify the phasing and the improvements to be constructed in each phase.

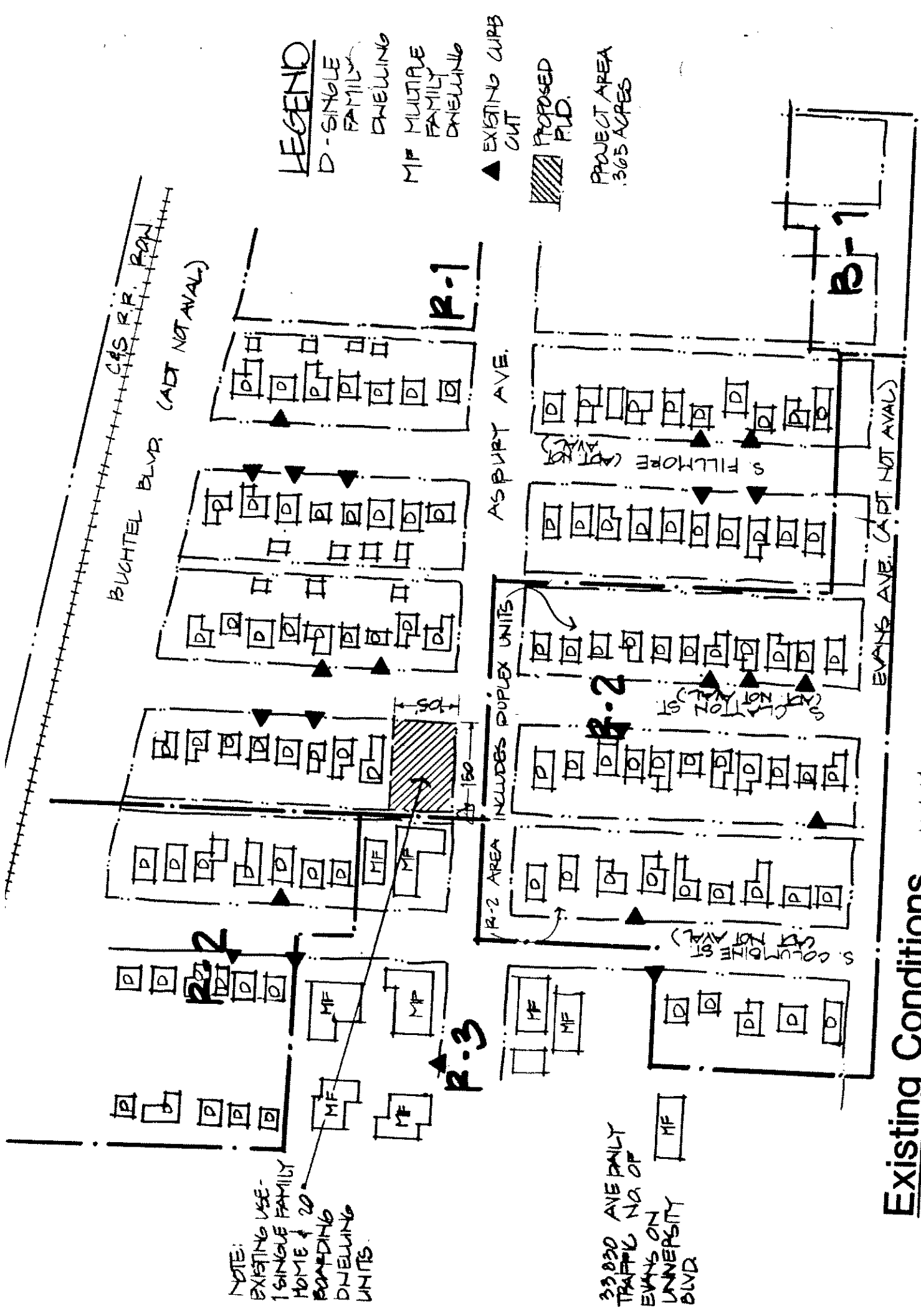
Anticipated starting date _____ Anticipated completion date _____

P.U.D. at 2535 & 2545 E. Asbury Avenue
Address

3. On an attached page a written statement is given generally describing:
 - a. The proposed P.U.D. and the market which it is intended to serve.
 - b. Its relationship to the Comprehensive Plan; where the applicant's objectives are not in substantial conformance with the changing conditions that justify approval of the proposed P.U.D. District. (For help on this please contact Denver Planning Office).
 - c. How the proposed P.U.D. District is to relate to the character of the surrounding neighborhood.
4. The "Existing Conditions Map" is attached following the written statement described above.
5. The "District Plan" is attached following the "Existing Conditions Map". This plan includes the following listed and attached drawings or renderings which show the architectural concepts, building elevations, facade treatment, exterior building materials, and/or other elements.
6. **ACKNOWLEDGEMENT:** The applicant understands that vested property rights shall be created ninety (90) days after the approval of this district plan by the Denver City Council.

Karen Z. Harvey
Applicant

- 3a. The proposed PUD is intended as a multi-unit efficiency apartment dwelling and one single unit dwelling. The intent is to continue to serve the market it has served over the past years, which is primarily students. The requested PUD address the change in market conditions whereas rooming and boarding houses are less desirable and efficiency living is preferred. All items outlined in the District Plan are existing and this proposal is aimed at providing a compatible living environment while being in conformance with the Denver City Code. Parking, landscaping, signage, utilities are all existing and adequately serve the property.
- b. The following policies show that this PUD is in conformance with the City of Denver comprehensive plans.
Sec. NH-P-12 and HO-P-8.
- This PUD requests the rezoning of the property from a non-conforming use in the R-1 District. The City's policies encourage this. This PUD also makes available a dwelling unit that has become necessary due to the change in demographic and market conditions.
- c. The neighborhood in which this property is located varies quite a bit in uses due to its proximity to the University of Denver. Existing uses include single family residences, fraternity and sorority houses, multiple unit dwellings, duplexes, and businesses. A portion of the residences are rental units for students. The efficiency apartments provide dwelling type that is appealing and affordable to students. This property, having been in existence since the 1940's, has blended and helped to create the character of the neighborhood and therefore will not have an adverse effect or change the existing character. The proposed change in zoning to multi-unit efficiency apartment dwellings and the single unit dwelling create a more compatible environment with the neighborhood by reducing the number of transient residents and providing a more complete living environment.



LEGEND
 D-SINGLE FAMILY DWELLING
 MF MULTIPLE FAMILY DWELLING
 ▲ EXISTING CURB CUT
 ▨ PROPOSED P.D.

PROJECT AREA
 365 ACRES

BUCHTEL BLVD (ADT NOT AVAL)
 CS R.R. ROW

ASBURY AVE.

EVANS AVE. (ADT NOT AVAL)

S. FILLMORE (ADT NOT AVAL)

S. CLAYTON ST (ADT NOT AVAL)

S. COLUMBINE ST (ADT NOT AVAL)

NOTE:
 EXISTING USE-
 1 SINGLE FAMILY HOME + 20 BOARDING DWELLING UNITS.

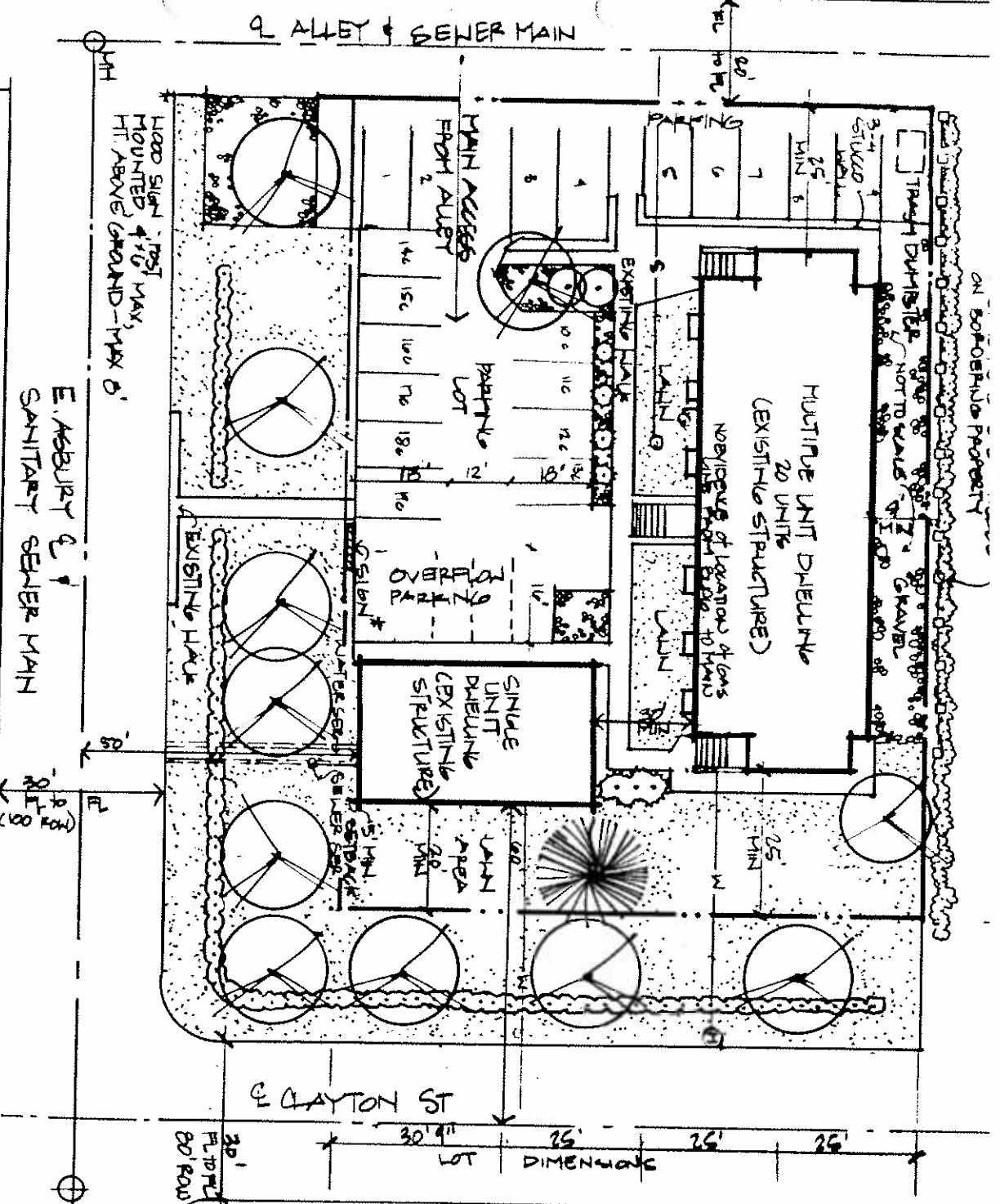
33020 AVE DAILY TRAFFIC NO. OF EVANS ON UNIVERSITY BLVD

Existing Conditions

12.1.01

2535 E. ASBURY DENVER, CO 80210

APPLICATION NO: 3710



LEGEND

- EXISTING DECIDUOUS TREES
HICK, BIRCH, ASH, WILLOW,
& MAPLE
- EXISTING PINE
- EXISTING CHEYENNE PRAIRIE
HEDGES
- EXISTING EVERGREEN SHRUB
- LAWN AREA
- GRAVEL

NOTES:

1. ALL DIMENSIONS INTERNAL TO THE PROP. ARE MINIMUMS
2. ALL UTILITIES ARE EXISTING
3. ALL ITEMS ILLUSTRATED ARE EXISTING.
4. 14 PARKING SPACES ARE PROVIDED

District Plan

B.1.84

2535 E. ABBURY
DENVER, CO 80210

APPLICATION NO: 3410

SCALE: 1" = 30'



NORTH


Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	2535 Asbury Partners, LLC.	Representative Name	John Glaser
Address	2102 S. Jackson Street	Address	2102 S. Jackson Street
City, State, Zip	Denver, CO 80210	City, State, Zip	Denver, CO 80210
Telephone	(949) 923-9826	Telephone	(949) 923-9826
Email	johnglase@gmail.com	Email	johnglase@gmail.com
<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):	2535 - 2545 E. Asbury		
Assessor's Parcel Numbers:	05252-05-010-000, (161559154)		
Area in Acres or Square Feet:	.36 acres or 15,900 sq. ft.		
Current Zone District(s):	PUD 278		
PROPOSAL			
Proposed Zone District:	E-MU-2.5		

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 checked="" 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. 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/> 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. Such change may include:</p> <p style="margin-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p style="margin-left: 20px;">b. A City adopted plan; or</p> <p style="margin-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</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. Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" 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. 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:	
<p><input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input checked="" type="checkbox"/> Proof of Ownership Document(s)</p> <p><input checked="" type="checkbox"/> Review Criteria, as identified above</p>	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<p><input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)</p> <p><input checked="" type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity</p>	
Please list any additional attachments:	
Re-Zoning, Letter of Justification	

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	YES
2535 Asbury Partners, LLC. John Glaser	2535-2545 Asbury Denver, CO 80210 (949) 923-9826 johnglase@gmail.com	100%		02/06/2020	B	Yes



2019166570

Page: 1 of 2

11/27/2019 08:26 AM
City & County of Denver
Electronically Recorded

R \$18.00

WD

D \$360.00



State Documentary Fee
Date: 11-26-19
\$360.00

Special Warranty Deed

(Pursuant to C.R.S. 38-30-113(1)(b))

Grantor(s), **ASBURY BUILDINGS LLC, A COLORADO LIMITED LIABILITY COMPANY**, whose street address is **2535 - 2545 EAST ASBURY AVENUE, DENVER, CO 80210**, City or Town of **DENVER**, County of **Denver** and State of **Colorado**, for the consideration of **(\$3,600,000.00) ***Three Million Six Hundred Thousand and 00/100***** dollars, in hand paid, hereby sell(s) and convey(s) to **2535 ASBURY PARTNERS, LLC, A COLORADO LIMITED LIABILITY COMPANY**, whose street address is **2102 S. JACKSON STREET, DENVER, CO 80210**, City or Town of **DENVER**, County of **Denver** and State of **Colorado**, the following real property in the County of **Denver** and State of **Colorado**, to wit:

LOTS 23 THROUGH 26, INCLUSIVE, BLOCK 6, UNIVERSITY PARK AMENDED MAP, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

also known by street and number as: **2535 -2545 EAST ASBURY AVENUE, DENVER, CO 80210**

with all its appurtenances and warrant(s) the title to the same against all persons claiming under me(s), subject to Statutory Exceptions.

Signed this day of 11-26-19.

(SEE ATTACHED "SIGNATURE PAGE")

When recorded return to: **2535 ASBURY PARTNERS, LLC, A COLORADO LIMITED LIABILITY COMPANY**
2102 S. JACKSON STREET, DENVER, CO 80210



**OPERATING AGREEMENT
OF
2535 ASBURY PARTNERS, LLC,
a Colorado limited liability company**

THIS OPERATING AGREEMENT (this “Agreement”) is made and entered into as of October ___, 2019, by and among the following members:

1. John Glaser
2. Tyler Davis
3. Charles Davis
4. Charles Davis Jr.
5. Adam Davis
6. The Gannaway Revocable Living Trust dated May 19, 2014
7. 2016 Byer Family Trust
8. Dustin Byer
9. Hal Byer and Marihelene Byer Revocable Trust, u/d/t Dated June 6, 2008
10. John Troutman
11. Eric Grombacher
12. Belflower Investments, LLC

Each of the foregoing are referred to herein as a “Member”, and collectively they are referred to herein as the “Members”. The Members have entered into this Agreement with reference to the following:

A. The Members have formed 2535 ASBURY PARTNERS, LLC (the “Company”), as a limited liability company pursuant to the Colorado Limited Liability Company Act, Colorado Revised Statutes § 7-80-101 *et seq.* (the “Act”);

B. The Members desire to provide for the structure and operation of the Company by entering into this Agreement; and

C. For tax purposes it is intended that the Company shall be classified as a “partnership”, and not an “association” taxable as a “corporation”, as those terms are defined in Section 7701 of the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable Treasury regulations promulgated thereunder (the “Regulations”).

NOW, THEREFORE, in consideration of the foregoing Recitals and for the mutual agreements set forth herein, intending to be legally bound, the Members hereby agree that the Company shall be structured and operate as follows:

**ARTICLE 1
THE LIMITED LIABILITY COMPANY**

1.1 Formation. The Company was formed pursuant to the Act upon the filing of the Company’s Articles of Organization with the Colorado Secretary of State on September 11, 2019. The Members hereby agree to continue the Company as a limited liability company under the Act, upon the terms and subject to the conditions set forth in this Agreement. The rights and liabilities of the Members shall be determined pursuant to the Act and this Agreement. The Members are hereby authorized to file and record any amendments to the Articles or Organization and such other documents as may be

reasonably required or appropriate under the Act or the laws of any jurisdiction in which the Company may conduct business or own property.

1.2 Name. The name of the Company is “2535 Asbury Partners, LLC”, and all business of the Company shall be conducted under that name or any fictitious name or names selected by the Members from time to time, provided that any such name reflects the Company’s status as a limited liability company and is otherwise permitted by applicable law.

1.3 Place of Business. The Company’s principal place of business shall be 2102 S. Jackson Street, Denver, Colorado, or such other place or places as the Members may from time to time determine. The Company may also have such offices, anywhere within and outside the State of Colorado, as the Members may from time to time determine, or as the business of the Company may require. The registered agent shall be as stated in the Articles or as otherwise determined by the Members.

1.4 Business and Authority. The Company may engage in any lawful business permitted by the Act or the laws of any jurisdiction in which the Company may do business. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section.

1.5 Agreement; Effect of Inconsistencies with the Act. It is the express intention of the Members that this Agreement shall be the sole source of the agreement of the parties, and, except to the extent a provision of this Agreement expressly incorporates federal income tax rules by reference to sections of the Code or Regulations or is expressly prohibited or ineffective under the Act, this Agreement shall govern, even when inconsistent with, or different than, the provisions of the Act or any other law or rule. To the extent any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be deemed to be amended to the smallest degree possible in order to make this Agreement effective under the Act in accordance with the intent of the Members. In the event the Act is subsequently amended or interpreted in such a way to make any provision of this Agreement that formerly was invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment. The Members hereby agree that the duties and obligations imposed on the Members as such shall be those set forth in this Agreement, which is intended to govern the relationship among and between the Company and the Members, notwithstanding any provision of the Act or common law to the contrary.

1.6 Events of Dissolution. The Company shall continue until dissolved by: (a) the affirmative vote of at least sixty-five percent of the Members (by Membership Interest); (b) any event which makes it unlawful for the business of the Company to be carried on by the Members; or (c) any other event causing dissolution of a limited liability company under the Act.

1.7 Continuance of the Company. If any event occurs that would terminate a Member’s continued eligibility for membership in the Company and that would otherwise constitute an event of dissolution under the Act, then the remaining Members may elect to continue the business of the Company, within ninety (90) days from the date of the event of dissolution, upon the affirmative vote of the lesser of (a) all remaining Members, or (b) such lesser number as shall not adversely affect the treatment of the Company as other than an association taxable as a corporation for federal income tax purposes.

ARTICLE 5 MANAGEMENT

5.1 Limitation of Liability. No Member shall be personally liable for the debts, obligations or liabilities of the Company. No asset of the Company shall be transferred, encumbered or used for the payment or satisfaction of any personal or individual obligations or liabilities of any Member.

5.2 Management by Members. The Members, within the authority granted by the Act and the terms of this Agreement, shall have the complete power and authority to manage and operate the Company and make all decisions affecting its business and affairs. Except as otherwise provided herein, all decisions and documents relating to the management and operation of the Company shall be made and executed by Members owning a majority of the Membership Interests. When the Manager (defined below) requests the Members' approval of a proposed action to be taken by the Company, each Member will have forty-eight (48) hours to respond via text or email, and the failure of a Member to respond within such time period will constitute such Member's approval. Without limiting the generality of the foregoing, the powers of Members owning a majority of the Membership Interests shall include:

(a) The power to acquire, purchase, construct, improve, maintain and operate any property, real or personal, in connection with the operation of the Company's business, and to enter into contracts or agreements with others (including any affiliates of a Member) with respect to such matters, at such prices and upon such terms and conditions as Members owning a majority of the Membership Interests may deem to be in the best interests of the Company;

(b) The power to borrow money on behalf of the Company as may be necessary or appropriate (as determined by Members owning a majority of the Membership Interests) for the business of the Company and to secure the repayment of such borrowing by executing mortgages or deeds of trust, or otherwise encumbering or subjecting to security interests, all or any part of the assets of the Company, and to refund, refinance, increase, modify, consolidate or extend the maturity of any indebtedness created by such borrowing, or any such mortgage, deed of trust, pledge, encumbrance or other security device, all upon such terms as Members owning a majority of the Membership Interests may deem to be in the best interests of the Company;

(c) The power to perform all the obligations of the Company and enforce all of the rights of the Company under the terms and conditions of all contracts and agreements entered into by the Company;

(d) The power to employ and dismiss from employment any and all employees, managers, agents, independent contractors, brokers, attorneys, and accountants;

(e) The power to purchase from others, at the expense of the Company, contracts of liability, casualty, and other insurance which Members owning a majority of the Membership Interests may deem advisable, appropriate or convenient for the protection of the assets or affairs of the Company or for any purpose convenient or beneficial to the Company;

(f) The power to lend money to the Company; if any Member makes any loan to the Company, the amount of any such loan shall not be treated as a contribution to the capital of the Company, but shall be a debt due from the Company, and the amount of any such loan shall be repayable upon such terms and conditions as Members owning a majority of the Membership Interests shall designate and bear such rate of interest as Members owning a majority of the Membership Interests determine to be reasonable under the circumstances;

(g) The power to delegate all or any administrative duties hereunder to and Members or non-Members who may, under the supervision of Members owning a majority of the Membership Interests, do any of the following: administer the day-to-day operations of the Company; serve as the Company's advisor and consult in connection with policy decisions made by Members owning a majority of the Membership Interests; provide the Company with consultants, accountants, attorneys, brokers, escrow agents, or other service providers deemed necessary or desirable by Members owning a majority of the Membership Interests; perform or assist in the performance of such other Company administrative functions as may be desired by Members owning a majority of the Membership Interests; and perform such other acts or services for the Company as Members owning a majority of the Membership Interests may approve;

(h) The power to pay and advance for the account of the Company any and all organizational expenses incurred in connection with the creation of the Company, including but not limited to accounting fees and expenses;

(i) The power to amend this Agreement and the Certificate of Formation in accordance with the provisions of this Agreement; and

(j) The power to do or cause to be done any other acts as Members owning a majority of the Membership Interests deem necessary, desirable or appropriate for the furtherance of the business of the Company and which are not prohibited by this Agreement or applicable law.

5.3 Major Decisions. Notwithstanding the terms of Section 5.2, the Company shall not take any of the following actions without first obtaining the written consent of all Members:

(a) Make, execute or deliver an assignment for the benefit of creditors; become subject to the authority of any trustee, custodian or receiver or file for or be subject to any proceeding for bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, relief of debtors, dissolution or liquidation or similar proceedings;

(b) Issue guaranties of obligations of any other person or entity;

(c) Amending this Agreement or the Company's Articles of Organization (other than for purposes of changing the Company's registered office);

(d) Any action that would cause the Company to not be treated as a Partnership for income tax purposes (including, without limitation, the making of an election to have the Company treated as an association taxable as a corporation for income tax purposes).

(e) Other than as set forth in Section 1.6, dissolving and/or liquidating the Company;

(f) Doing anything that would cause any Member or require any Member to guaranty or to otherwise become personally liable for indebtedness of the Company;

(g) Issue or repurchase any Membership Interests; or

(h) Agreeing with or committing to any third party to do any of the foregoing.

5.4 Bank Accounts. The Members shall be responsible for the safe keeping and use of all funds and assets of the Company. The funds of the Company shall not be commingled with funds of any Member or any other person and the Members shall not employ, or permit any other person to employ,

such funds in any manner except for the benefit of the Company. The bank accounts of the Company shall be maintained in the name of the Company as currently established through Wells Fargo bank or in such other banking institutions as are approved by Members owning a majority of the Membership Interests. Withdrawals shall be made only in the regular course of the Company's business and as otherwise authorized by Members owning a majority of the Membership Interests.

5.5 Decisions by Members. Whenever in this Agreement reference is made to the decision, consent, approval, judgment, or action of the Members, unless otherwise expressly provided in this Agreement, such decision, consent, approval, judgment, or action shall mean that of Members owning a majority of the Membership Interests. Third parties dealing with the Company shall be entitled to rely conclusively upon the power and authority of Members owning a majority of the Membership Interests to manage and operate the business and affairs of the Company.

5.6 Indemnification.

(a) To the fullest extent permitted by law, the Members shall not be liable, responsible, or accountable in damages or otherwise to the Company or to any other Member for any act, omission, or error in judgment performed, admitted or made in good faith and in a manner the Member believed to be within its scope of authority and in the best interests of the Company, so long as such act, omission, or error in judgment does not constitute fraud, gross negligence, willful misconduct or breach of fiduciary duty.

(b) To the fullest extent permitted by law, the Company shall indemnify and hold harmless each Member from and against any and all loss, expense, damage or injury suffered, sustained or incurred by such Member arising out of any actual or threatened action, suit, proceeding or claim relating to such Member's activities on behalf of the Company, or in furtherance of the interests of the Company, including, but not limited to, any judgment, award, settlement, attorneys' fees, and other costs and expenses incurred in connection with the defense or settlement of any actual or threatened action, suit, proceeding or claim, so long as the acts, omissions, or alleged acts or omissions upon which such actual or threatened action, suit or proceeding or claim is based was undertaken in good faith in a manner believed by such Member to be in the best interests of the Company and did not constitute fraud, gross negligence, willful misconduct or breach of fiduciary duty.

5.7 Records at Principal Place of Business. The Members shall cause the Company to keep the following at the Company's principal place of business: (a) a current list of the name and address of each Member; (b) a copy of the Certificate of Formation and all amendments thereto; (c) copies of the Company's federal, state and local tax returns and reports; (d) copies of any financial statements of the Company and all business and financial records of the Company; and (e) a copy of this Agreement and any and all amendments hereto. All of the above shall be available for inspection by any Member at any reasonable time. The Company may maintain its books, records, financial statements or other information required to be maintained by this Agreement in other than a written form if such form is capable of conversion into written form within a reasonable time.

5.8 Reimbursements. The Company shall reimburse the Members for all reasonable costs and out-of-pocket expenses incurred in managing, promoting and furthering the business and operations of the Company so long as such matters have been approved as required by this Agreement.

5.9 Tax Elections. A Member designated by Members owning a majority of the Membership Interests shall make any and all elections for federal, state, local, and foreign tax purposes including, without limitation, any election, if permitted by applicable law: (a) to adjust the basis of property pursuant to Code Sections 754, 734(b) and 743(b), or comparable provisions of state, local or foreign law,

in connection with transfers of any Member's membership interest and Company distributions; (b) to extend the statute of limitations for assessment of tax deficiencies against the Members with respect to adjustments to the Company's federal, state, local or foreign tax returns; and (c) to the extent provided in Code Sections 6221 through 6231 and similar provisions of state, local, or foreign law, to represent the Company and the Members before taxing authorities or courts of competent jurisdiction in tax matters affecting the Company or the Members in their capacities as Members, and to file any tax returns and execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Members with respect to such tax matters or otherwise affect the rights of the Company and the Members. The Member so designated by Members owning a majority of the Membership Interests is specifically authorized to act as the "Tax Matters Member" under the Code and in any similar capacity under state, local, or foreign law.

5.10 Managing Partner. The Members hereby appoint John Glaser to serve as the initial Managing Partner of the Company (in such capacity, the "Manager"), and the Members hereby delegate to the Manager the authority to administer the day-to-day operations of the Company in conformity with the business plan and budget for the Company as have been approved by the Members, *provided, however*, that the Manager shall have no authority to: (a) take any action included in Section 5.3 of this Agreement without first obtaining the written consent of all Members; (b) take any action included in Section 5.2 of this Agreement if such action would be outside of the annually approved business plan without first obtaining the written consent of Members owning a majority of the Membership Interests; or (c) enter into any agreement for the foregoing. In accordance with the initial business plan and budget for the Company, the Members have agreed to pay John Glaser and/or assigned entity a 1% acquisition fee for all services rendered to date through escrow at time of closing. The Manager may resign at any time and may be removed at any time by Members owning a majority of the Membership Interests, whereupon Members owning a majority of the Membership Interests may appoint a successor Manager. The Manager shall not receive any salary or other compensation for services rendered as Manager.

ARTICLE 6 ACCOUNTS

6.1 Fiscal Year, Taxable Year. The fiscal year and the taxable year of the Company is the calendar year.

6.2 Determination of Capital Accounts. Except as otherwise provided in this Agreement, whenever it is necessary to determine the capital account of any Member for purposes of Article 2, the capital account of such Member shall be determined after giving effect to (a) all allocations of profit, loss, income, gains, expenses and deductions of the Company for the current calendar year, and (b) all distributions for such year, in respect of transactions effected prior to the date as of which such determination is to be made.

6.3 Transfers during Year. To avoid an interim closing of the Company's books, the share of profit and loss of any Member who transferred all or part of such Member's interest in the Company, or who became a Member, during any calendar year shall be determined by taking such Member's proportionate share of the amount of the profit and loss for the year. The Members shall determine such proration based on the portion of the calendar year that has elapsed prior to the transfer. The Members shall allocate the balance of the profit and loss attributable to the transferred interest to the transferee of such interest.

6.4 Reports. The Members shall close the Company's books of account promptly after the close of each calendar year and prepare and send to each Member a statement of such Member's distributive share of income and expense for federal and state income tax reporting purposes.

ARTICLE 7 ROLES OF MEMBERS

7.1 Rights or Powers. Except as specifically set forth herein, the Members as such shall not have any right or power to take part in the management or control of the Company or its business and affairs or to act for or bind the Company in any way. Notwithstanding the foregoing, the Members have all the rights and powers specifically set forth in this Agreement and, to the extent not inconsistent with this Agreement, in the Act.

7.2 Withdrawal/Resignation. Except as expressly provided herein, no Member shall demand or receive a return on or of such Member's capital contributions or withdraw from the Company without the unanimous approval of the Members.

7.3 Member Compensation. No Member shall receive any interest, salary, or drawing with respect to its capital contributions or for services rendered on behalf of the Company, or otherwise, in its capacity as a Member, except as otherwise expressly provided in this Agreement. Notwithstanding the foregoing, any Member may serve as an employee or consultant to the Company and be compensated in such capacity as may be unanimously agreed upon by the Members.

7.4 Partition. While the Company remains in effect or is continued, each Member agrees and waives its rights to have any property of the Company partitioned, or to file a complaint or to institute any suit, action or proceeding at law or in equity to have any Company property partitioned, and each Member, on behalf of itself, its successors and its assigns hereby waives any such right.

ARTICLE 8 TRANSFERS OF MEMBERS' INTERESTS

8.1 Transfers. Except as expressly permitted hereby, no Member may sell, gift, transfer, assign or convey, either directly or indirectly, all or any portion of such Member's interest in the Company, without the written consent of all other Members.

8.2 Legal Incapacity or Death of Member. On the adjudicated legal incapacity or death of a Member, unless the Company exercises its rights under Section 8.3, the successor in interest to the Member (whether an estate, guardian, conservator or otherwise) will receive only the economic right to receive distributions whenever made by the Company and the Member's allocable share of taxable income, gain, loss, deduction, and credit (the "Economic Rights") unless and until a majority of the other Members elect to admit the transferee as a fully substituted Member. Any transfer of Economic Rights pursuant to this Section will not include any right to participate in management of the Company, including any right to vote or consent to any matter, and will not include any right to information on the Company or its operations or financial condition. Following any transfer of only Economic Rights, the transferring Member's power and right to vote or consent to any matter submitted to the Members will be eliminated, and the Ownership Interests of the remaining Members, for purposes only of such votes, consents, and participation in management, will be proportionately increased until such time, if any, as the transferee of the Economic Rights becomes a fully substituted Member.

8.3 Optional Buy Out. Upon the adjudicated legal incapacity or death of a Member, the Company, at its option, may elect to purchase, acquire, and redeem such Member's Membership Interest in the Company pursuant to the provisions of this Section by providing written notice to the estate of the affected Member within 120 days of the adjudication of legal incapacity or death of the Member, as applicable.

(a) The value of a Member's Membership Interest in the Company on the date of such Member's adjudication of legal incapacity or death will be determined by mutual agreement of the other Members and the conservator, guardian or personal representative of the estate of the affected Member. If the parties cannot reach an agreement on the value within 60 days after the Company's election to exercise its rights pursuant to this Section, then the other Members and the conservator, guardian or personal representative each must select a qualified business appraiser within the next succeeding 30 days. The appraisers so selected must attempt to determine the value of the affected Member's Membership Interest at the time of adjudication of legal incapacity or death based solely on their appraisal of the total value of the Company's assets and the amount the decedent would have received had the assets of the Company been sold at that time for an amount equal to their fair market value and the proceeds (after payment of all Company obligations) were distributed in the manner contemplated in Section 9.4. In the event the appraisers cannot agree on the value within 30 days after being selected, the two appraisers must, within 30 days, select a third appraiser, who will appraise the value of the affected Member's Membership Interest in the same manner. The value of the affected Member's Membership Interest in the Company and the purchase price therefor will be the average of the two appraisals nearest in amount to one another. That amount will be final and binding on all parties and their respective successors, assigns, and representatives. The costs and expenses of the third appraiser and any costs and expenses of the appraiser retained but not paid for by the estate of the affected Member will be offset against the purchase price paid for the affected Member's Membership Interest in the Company.

(b) The closing of the sale of the affected Member's Membership Interest will be held at the office of the Company on a date designated by the Company not later than 90 days after the determination of the purchase price for the affected Member's Membership Interest in the Company.

(c) The purchase price for the affected Member's Membership Interest in the Company will be paid in cash at the closing.

(d) At the closing of the sale of the affected Member's Membership Interest, the affected Member's guardian, conservator, estate or personal representative must assign to the Company all of the affected Member's Membership Interest free and clear of all liens, claims, and encumbrances, and, at the request of the Company, the guardian, conservator, estate or personal representative must execute all other instruments as may reasonably be necessary to vest in the Company all of the affected Member's right, title, and interest in the Company. If either the Company or the affected Member's guardian, conservator, estate or personal representative fails or refuses to execute any instrument required by this Section 8.3, the other party is hereby granted the irrevocable power of attorney which, it is agreed, is coupled with an interest, to execute and deliver on behalf of the failing or refusing party all instruments required to be executed and delivered by the failing or refusing party.

(e) Upon the completion of the purchase of the affected Member's Membership Interest, the Membership Interests of the remaining Members will increase proportionately to their then-existing Membership Interests.

ARTICLE 9 DISSOLUTION AND TERMINATION

9.1 Appointment of Liquidator. Upon the Company's dissolution, the Members shall appoint a liquidator, who may but need not be a Member. The liquidator will wind up and liquidate the Company in an orderly, prudent and expeditious manner in accordance with the following provisions of this Article 9. The Company is authorized to pay a reasonable fee to the liquidator for its services performed

pursuant to this Article 9 and to reimburse the liquidator for its reasonable costs and expenses incurred in performing those services.

9.2 Final Accounting. The liquidator will make proper accountings (a) to the end of the month in which the event of dissolution occurred and (b) to the date on which the Company is finally and completely liquidated.

9.3 Duties and Authority of Liquidator. The liquidator will make adequate provision for the discharge of all of the Company's debts, obligations and liabilities. The liquidator may sell, encumber or retain for distribution in kind any of the Company's assets. Any gain or loss recognized on the sale of assets will be allocated to the Members' Capital Accounts in accordance with the provisions of Article 3. With respect to any asset the liquidator determines to retain for distribution in kind, the liquidator will allocate to the Members' Capital Accounts the amount of gain or loss that would have been recognized had the asset been sold at its value as determined in compliance with Section 704 of the Code and related Regulations.

9.4 Final Distribution. The liquidator will distribute any assets remaining after the discharge or accommodation of the Company's debts, obligations and liabilities among the Members as follows:

(a) First, to the Members in proportion to their Capital Accounts, until all Capital Accounts have been reduced to zero; and

(b) Second, to the Members in proportion to their respective Membership Interests.

The liquidator will distribute any assets distributable in kind to the Members in undivided interests as tenants in common. A Member whose capital account is negative will have no liability to the Company, the Company's creditors or any other Member with respect to the negative balance.

9.5 Certificate of Dissolution. Upon the completion of the distribution of Company assets, the Company shall be terminated and the Members shall sign and otherwise cause the Company to execute a certificate of dissolution and take such other actions as may be necessary to terminate the Company.

ARTICLE 10 NOTICES AND MEETINGS

10.1 Method for Notices. All notices hereunder shall be delivered personally or sent by overnight courier or by certified mail, return receipt requested, postage prepaid, and addressed to the Company or any Member, as the case may be, at her or its address as shown in the Company's record. At the written request of a Member made to the Company, the Company or any Member giving notice hereunder shall give notice to any other address subsequently requested by such requesting member.

10.2 Computation of Time. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

10.3 Annual and Special Meetings. An annual meeting and special meetings of the Members, for any purpose or purposes, may be called by any Member.

10.4 Place of Meeting. A Member calling an annual or special meeting may designate any place as the place for such meeting. Any Member may participate in any annual or special meeting by conference telephone call.

10.5 Effective Date of Notice. Unless otherwise prescribed by statute, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered to each Member of record (as of the date of such notice) not less than five nor more than thirty days before the date of the meeting. If mailed, all notices under this Agreement, including notices of meeting, shall be deemed to be delivered three days after mailing in accordance with Section 10.1 above. If delivered personally, notice shall be effective upon receipt.

10.6 Quorum. Members holding at least 50% of the Membership Interests, represented in person or by proxy, shall constitute a quorum at a meeting of Members.

10.7 Proxies. At all meetings of the Members, a Member may vote in person or by proxy executed in writing by the Member or by such Member's duly authorized attorney in fact.

10.8 Majority Rule. Except for any matter that requires the approval of Members owning more than a majority of the Membership Interests pursuant to this Agreement or the Act, any matter receiving the vote of Members owning a majority of the Membership Interests shall be deemed approved by the Members.

10.9 Informal Actions by Members. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if they consent in writing setting forth the actions so taken.

ARTICLE 11 DISPUTE RESOLUTION; BUY/SELL

11.1 Arbitration of Disputes. Except as otherwise provided in this Agreement, any controversy or dispute arising out of this Agreement, the interpretation of any of the provisions hereof, or the action or inaction of any Member hereunder shall be submitted to arbitration in Denver County, Colorado before a retired Colorado judge selected by the American Arbitration Association under the then-applicable commercial arbitration rules. Any award or decision obtained from any such arbitration proceeding shall be final and binding on the parties, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. No action at law or in equity based upon any claim arising out of or related to this Agreement shall be instituted in any court by any Member except (a) an action to compel arbitration pursuant to this Section 11.1, or (b) an action to enforce an award obtained in an arbitration proceeding in accordance with this Section 11.1.

11.2 Waiver of Jury Trial. EACH OF THE MEMBERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION ARISING OUT OF MATTERS RELATED TO THIS AGREEMENT, WHICH WAIVER IS INFORMED AND VOLUNTARY.

11.3 Buy/Sell Events and Procedure.

(a) Definition of Buy/Sell Events. For purposes of this Agreement, (i) "Buy/Sell Event" means the failure of the Members to agree on any matter that requires the unanimous agreement of all Members pursuant to this Agreement and the election by a Member to declare the occurrence of a Buy/Sell Event; (ii) "Offeror Member" means the Member declaring the Buy/Sell Event; and (iii) "Offeree Members" means the Members who are not the Offeror Member.

(b) Initiation of Buy/Sell. From and after the occurrence of a Buy/Sell Event, the Offeror Member shall initiate the buy/sell procedures set forth in this Section 11.3 by delivering written notice (the “Buy/Sell Notice”) to the Offeree Members. The Buy/Sell Notice shall include a statement setting forth the Offeror Member’s estimate of the gross value of the Company (the “Buy/Sell Value”). On or before the expiration of 60 days following the Offeree Members’ receipt of the accountant’s notice of the Buy/Sell Price (as described below), each of the Offeree Members shall elect, by giving written notice to the other Members, to either: (i) purchase the Membership Interest of the Offeror Member for the Buy/Sell Price, or (ii) sell its Membership Interest to the Offeror Member for the Buy/Sell Price. If the Offeree Member fails to timely deliver such written notice to the Offeror Member, then the Offeree Member shall be deemed to have elected to sell its Membership Interest to the Offeror Member for the Buy/Sell Price. If multiple Offeree Members elect to purchase the Membership Interest of the Offeror Member, then the Offeree Members shall each purchase a portion of the Offeror Member’s Membership Interest in proportion to the Offeree Members’ relative then-existing Membership Interests.

(c) Determination of the Buy/Sell Price. Within fifteen days after the receipt of a Buy/Sell Notice, the Company’s accountants shall determine the amount of cash which would be distributed to each Member based upon a hypothetical liquidation of the Company pursuant to this Agreement if the Company was sold for the Buy/Sell Value as of the date of the Buy/Sell Notice and the Company was liquidated. Upon such determination, the Company’s accountant shall give each Member written notice thereof. The amount determined by the accountants to be distributable to a Member shall constitute the purchase price (the “Buy/Sell Price”) applicable to such Member’s Membership Interest. The determination by the Company’s accountant of such amounts, including the amount of any reserves, shall be conclusive, absent manifest error. In no event may any allegation of manifest error delay the acquisition of a Membership Interest pursuant to this Section, it being agreed and understood by the Members that the sole remedy for an aggrieved Member alleging manifest error shall be to recover the sum of the difference between what the Buy/Sell Price would have been without the error and the Buy/Sell Price as determined by the Company’s accountant.

(d) Closing of Buy/Sell. The closing of a purchase and sale pursuant to this Section shall be held at the Company’s offices on the 75th day following the Members’ receipt of the accountant’s determination of the Buy/Sell Price. The selling Member or Members shall transfer the entire Membership Interest of the selling Member(s) to the purchasing Member or Members free and clear of all liens, security interests and competing claims, and shall deliver to the purchasing Member or Members such instruments of transfer, releases, and such evidence of due authorization, execution and delivery and of the absence of any such liens, security interests or competing claims as the purchasing Member or Members shall reasonably request. The purchasing Member or Members shall pay the Buy/Sell Price at the closing.

ARTICLE 12 GENERAL PROVISIONS

12.1 Amendments. Any Member may propose amendments to this Agreement and to the Certificate of Formation. A proposed amendment shall become effective and binding upon the Members at such time as it has been approved by all Members.

12.2 Representations and Warranties.

(a) Each Member represents and warrants to the other Members as follows:

(i) The Member has all requisite power and authority to enter into this Agreement and to conduct the business of the Company as and to the extent set forth herein;

(ii) This Agreement constitutes the legal, valid and binding obligation of the Member enforceable in accordance with its terms;

(iii) No consents or approvals are required from any governmental authority or other person or entity for the Member to enter into this Agreement and perform all actions contemplated hereby;

(iv) The execution and delivery of this Agreement by the Member does not conflict with or contravene the provisions of any agreement or instrument by which such Member is bound or any law, rule, regulation, order or decree to which such Member is subject;

(v) There are no actions, suits, proceedings, or investigations pending or, to the knowledge of such Member, threatened against or affecting such Member or any of such Member's assets or businesses in any court or before or by any governmental department, board, agency, or instrumentality that could, if adversely determined, reasonably be expected to materially impair such Member's ability to perform its obligations under this Agreement or to have a material adverse effect on the financial condition of such Member;

(vi) Such Member is acquiring its membership interest based upon its own investigation, and the exercise by such Member of its rights and the performance of its obligations under this Agreement will be based upon its own investigation, analysis, and expertise; and

(vii) Such Member understands that taxable income and gain allocated to such Member by the Company under this Agreement and the tax on the portion thereof allocated to such Member hereunder for any calendar year may exceed the cash distributions from the Company to such Member and that such Member may have to look to sources other than distributions from the Company to pay such tax.

(b) Each Member agrees to indemnify and hold harmless the Company and each other Member and their successors and assigns from and against any and all loss, damage, liability or expense (including costs and attorneys' fees) which they may incur by reason of, or in connection with, any breach of the foregoing representations and warranties by such Member. All such representations and warranties and the indemnification provisions of this Section 12.2 shall survive the execution and delivery of this Agreement and the termination and dissolution of the Company.

12.3 Further Assurances. Each Member agrees to execute, acknowledge, deliver, file, record and publish such further instruments and documents, and do all such other acts and things as may be required by law, or as may be required to carry out the intent and purposes of this Agreement.

12.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado applicable to agreements made and to be performed wholly within that State.

12.5 Attorneys' Fees. If the Company or any Member obtains a judgment against any Member by reason of the breach of this Agreement or the failure to comply with the terms hereof, reasonable attorneys' fees and costs as fixed by the court shall be included in such judgment.

12.6 Captions. All titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision in this Agreement.

(ii) This Agreement constitutes the legal, valid and binding obligation of the Member enforceable in accordance with its terms;

(iii) No consents or approvals are required from any governmental authority or other person or entity for the Member to enter into this Agreement and perform all actions contemplated hereby;

(iv) The execution and delivery of this Agreement by the Member does not conflict with or contravene the provisions of any agreement or instrument by which such Member is bound or any law, rule, regulation, order or decree to which such Member is subject;

(v) There are no actions, suits, proceedings, or investigations pending or, to the knowledge of such Member, threatened against or affecting such Member or any of such Member's assets or businesses in any court or before or by any governmental department, board, agency, or instrumentality that could, if adversely determined, reasonably be expected to materially impair such Member's ability to perform its obligations under this Agreement or to have a material adverse effect on the financial condition of such Member;

(vi) Such Member is acquiring its membership interest based upon its own investigation, and the exercise by such Member of its rights and the performance of its obligations under this Agreement will be based upon its own investigation, analysis, and expertise; and

(vii) Such Member understands that taxable income and gain allocated to such Member by the Company under this Agreement and the tax on the portion thereof allocated to such Member hereunder for any calendar year may exceed the cash distributions from the Company to such Member and that such Member may have to look to sources other than distributions from the Company to pay such tax.

(b) Each Member agrees to indemnify and hold harmless the Company and each other Member and their successors and assigns from and against any and all loss, damage, liability or expense (including costs and attorneys' fees) which they may incur by reason of, or in connection with, any breach of the foregoing representations and warranties by such Member. All such representations and warranties and the indemnification provisions of this Section 12.2 shall survive the execution and delivery of this Agreement and the termination and dissolution of the Company.

12.3 Further Assurances. Each Member agrees to execute, acknowledge, deliver, file, record and publish such further instruments and documents, and do all such other acts and things as may be required by law, or as may be required to carry out the intent and purposes of this Agreement.

12.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado applicable to agreements made and to be performed wholly within that State.

12.5 Attorneys' Fees. If the Company or any Member obtains a judgment against any Member by reason of the breach of this Agreement or the failure to comply with the terms hereof, reasonable attorneys' fees and costs as fixed by the court shall be included in such judgment.

12.6 Captions. All titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision in this Agreement.

12.7 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and assigns, and shall inure to the benefit of the parties hereto and, except as otherwise provided herein, their respective executors, administrators, legal representatives, heirs, successors and assigns.

12.8 Extension Not a Waiver. No delay or omission in the exercise of any power, remedy or right herein provided or otherwise available to a Member or the Company shall impair or affect the right of such Member or the Company thereafter to exercise the same. Any extension of time or other indulgence granted to a Member hereunder shall not otherwise alter or affect any power, remedy or right of any other Member or of the Company, or the obligations of the Member to whom such extension or indulgence is granted.

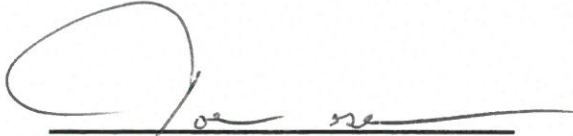
12.9 Severability. In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and other application thereof shall not in any way be affected or impaired thereby.

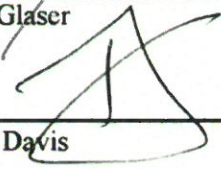
12.10 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and all prior agreements relative hereto which are not contained herein are terminated.

12.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute but one and the same agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth in the introductory paragraph hereof.



John Glaser


Tyler Davis

Mailing Address

2102 S. Jackson Street
Denver, CO 80210

2135 Geri Lane
Hillsborough, CA 94010

Charles Davis

1600 E. Moonridge Rd.
Tucson, AZ 85718

Charles Davis Jr.

716 N Country Club Rd.
Tucson, AZ 84716

Adam Davis

The Gannaway Revocable Living Trust
dated May 19, 2914

60 Farmcote Dr.
Moreland Hills, OH 44022

By: _____
_____, Trustee

2016 Byer Family Trust

458 E 18th Street
Costa Mesa, CA 92627

By: _____
_____, Trustee

Dustin Byer

Hal Byer and Marihelene Byer Revocable
Trust, u/d/t dated June 6, 2008

By: _____
_____, Trustee

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John Glaser

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Denver, CO 80210

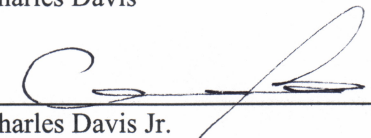
Tyler Davis

2135 Geri Lane
Hillsborough, CA 94010



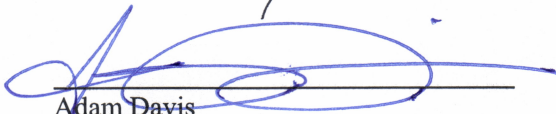
Charles Davis

1600 E. Moonridge Rd.
Tucson, AZ 85718



Charles Davis Jr.

716 N Country Club Rd.
Tucson, AZ 84716



Adam Davis

The Gannaway Revocable Living Trust
dated May 19, 2014

60 Farmcote Dr.
Moreland Hills, OH 44022

By: _____
_____, Trustee ✓

2016 Byer Family Trust

458 E 18th Street
Costa Mesa, CA 92627

By: _____
_____, Trustee

Dustin Byer

Hal Byer and Marihelene Byer Revocable
Trust, u/d/t dated June 6, 2008

By: _____
_____, Trustee ✓

26011 Via Viento

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Mailing Address

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Denver, CO 80210

Tyler Davis

2135 Geri Lane
Hillsborough, CA 94010

Charles Davis

1600 E. Moonridge Rd.
Tucson, AZ 85718

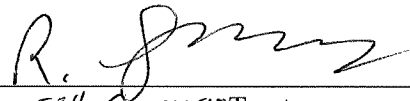
Charles Davis Jr.

716 N Country Club Rd.
Tucson, AZ 84716

Adam Davis

The Gannaway Revocable Living Trust
dated May 19, 2014

60 Farmcote Dr.
Moreland Hills, OH 44022

By: 
Russell Gannaway, Trustee

2016 Byer Family Trust

458 E 18th Street
Costa Mesa, CA 92627

By: _____
_____, Trustee

Dustin Byer

Hal Byer and Marihelene Byer Revocable
Trust, u/d/t dated June 6, 2008

By: _____
_____, Trustee

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Denver, CO 80210

Tyler Davis

2135 Geri Lane
Hillsborough, CA 94010

Charles Davis

1600 E. Moonridge Rd.
Tucson, AZ 85718

Charles Davis Jr.

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Tucson, AZ 84716

Adam Davis

The Gannaway Revocable Living Trust
dated May 19, 2914

60 Farmcote Dr.
Moreland Hills, OH 44022

By: _____
_____, Trustee

2016 Byer Family Trust

458 E 18th Street
Costa Mesa, CA 92627

By:  _____
Michael Byer, Trustee

Dustin Byer

Hal Byer and Marihelene Byer Revocable
Trust, u/d/t dated June 6, 2008

By: _____
_____, Trustee

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Denver, CO 80210

Tyler Davis

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Hillsborough, CA 94010

Charles Davis

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Tucson, AZ 85718

Charles Davis Jr.

716 N Country Club Rd.
Tucson, AZ 84716

Adam Davis

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dated May 19, 2914

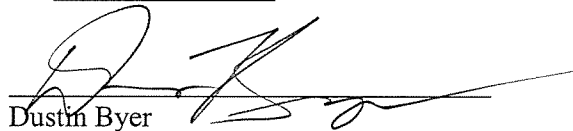
60 Farmcote Dr.
Moreland Hills, OH 44022

By: _____
_____, Trustee

2016 Byer Family Trust

458 E 18th Street
Costa Mesa, CA 92627

By: _____
_____, Trustee


Dustin Byer

200 McNeil Ln #109
Newport Beach, CA 92663

Hal Byer and Marihelene Byer Revocable
Trust, u/d/t dated June 6, 2008

By: _____
_____, Trustee

parties relating to the subject matter hereof and all prior agreements relative hereto which are not contained herein are terminated.

12.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute but one and the same agreement.

[signature page follows]

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John Glaser Denver, CO 80210

2135 Geri Lane
Tyler Davis Hillsborough, CA 94010

1600 E. Moonridge Rd.
Charles Davis Tucson, AZ 85718

716 N Country Club Rd.
Charles Davis Jr. Tucson, AZ 84716

Adam Davis _____

The Gannaway Revocable Living Trust 60 Farmcote Dr.
dated May 19, 2914 Moreland Hills, OH 44022

By: _____, Trustee


2016 Byer Family Trust 458 E 18th Street
Costa Mesa, CA 92627

By: _____, Trustee

Dustin Byer _____

Hal Byer and Marihelene Byer Revocable _____
Trust, u/d/t dated June 6, 2008 _____

By:  _____, Trustee



John Troutman

26011 Via Viento
Mission Viejo, CA 92691

Eric Grombacher

104 Promontory Drive West
Newport Beach, CA 92660

Belflower Investments, LLC

2965 Rolling Stone Road
Oklahoma City, Ok 73120

By: _____
Name: _____
Title: _____

John Troutman

26011 Via Viento
Mission Viejo, CA 92691

Eric Grombacher

104 Promontory Drive West
Newport Beach, CA 92660

Belflower Investments, LLC

2965 Rolling Stone Road
Oklahoma City, Ok 73120

By: _____

Name: *Paul Belflower*

Title: *Owner, Belflower Investments, LLC*

2535 Asbury Partners, LLC.

To: City of Denver, Community Planning & Development
From: John Glaser – Managing Partner, 2535 Asbury Partners, LLC.
Date: February 26, 2020

Re: Rezoning Application, 2535-2545 Asbury, Denver, Colorado

This letter is in addition to the Zone Map Amendment Application submitted by 2535 Asbury Partners, LLC. (the “Applicant”). The purpose of this application and memorandum is to take the property from its existing zoning from the former Chapter 59 PUD, PUD 278, and bring consistent with the City and County of Denver’s (the “City”) adopted plans specifically E-MU-2.5. The below narrative will provide background on how the proposed rezoning satisfies all of the zone map amendment criteria in sections 12.4.10.7 and 12.4.10.8 of the Denver Zoning Code (the “Code”).

Background

2535-2545 Asbury, (the “Property”) was acquired by 2535 Asbury Partners, LLC. on November 26th, 2019, and during due diligence it was identified that the current zoning of the Property was within the former Chapter 59 zoning more specifically PUD 278. The Property currently has 2 structures totaling 23 total units, and is located in the University Park neighborhood off Asbury and Clayton, approximately 3 blocks from the University of Denver and ½ mile from the University of Denver RTD Station. To the direct West of the property, there are multi-family properties, duplexes to the south and abuts single family residences to the north and east. Under the current PUD, the property is identified as 21 units, and the Applicant is requesting to bring the zoning into conformance based on being operated as 23 units while bringing into the current Code adopted by the City.

General Review Criteria – Section 12.4.10.7

As identified in the Code, the review criteria must be consistent with all three of the Codes general review criteria: (1) consistency with adopted plans; (2) uniformity of district regulations; and (3) public health, safety and general welfare.

I. Consistency with Adopted Plans

The code requires all map amendments be consistent with the City’s adopted plan. The following plans are applicable to the Property:

- A. Comprehensive Plan 2040
- B. Blueprint Denver 2019
- C. University Park Neighborhood Plan (2007)

A. Comprehensive Plan 2040

Denver's Comprehensive Plan was adopted by Denver City Council on April 22, 2019, and is comprised of six elements that inform the long-term goals. The application is consistent with goals 1, 2 and 8, Equitable, Affordable and Inclusive, Strong and Authentic neighborhoods and Environmentally Resilient.

Goal 1 of the Equitable, Affordable and Inclusion elements is to ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (Comprehensive Plan 2040, p. 28). Strategy A of Goal 1 identifies the need to increase development of housing units close to transit and mixed-use developments. Based on the proximity and walkability from the Property to the University and adjacent amenities including ½ mile walk from the University of Denver RTD Station, the application is consistent with the intent of the goal allowing for more density in close proximity to public transit.

Goal 1 of the Strong and Authentic Neighborhoods is to ensure all Denver's neighborhoods are complete, unique, and reflective of our City's diverse history and remains authentic to its spirit and culture as it evolves (Comprehensive Plan 2040, p. 34). Strategy B of Goal 1 identifies the need to provide a mix of housing types and services for a diverse population. Based on the current tenant profile, the location provides housing for students due to its close proximity to the University but other residents from young professionals to retirees allowing us to provide housing for a diverse population. Strategy D encourages quality infill development consistent with the surrounding neighborhood. Based on the current tenant profile and with the larger scale, more dense properties directly to the West up to University Blvd., the application and proposed zoning is consistent with the intent by providing housing to a diverse population while remaining consistent with the G-MU-5 properties and G-MU-3 property directly across the alley. E-MU-2.5 is an appropriate transition as the buildings lessen in scale moving further east from University Blvd. and compliments the 3, 2 and single story homes that surround the property. Additionally, the proposed application remains authentic to its spirit allowing for more housing in a neighborhood that keeps evolving as evident by the volume of construction projects at the University including additional freshman housing off Asbury and S. High St.

Goal 8 of Environmentally Resilient is to clean our soils, conserve land and grow responsibly (Comprehensive Plan 2040, p. 56). Strategy A identifies the goal of promoting infill development where infrastructure and services are already in place and Strategy C by focusing growth by transit stations and along high and medium capacity transit corridors. The application is consistent with the intent of the goal as the current site is being operated

as multi-family with all the surrounding infrastructure in place while being in close proximity to the public transit.

Ultimately, the application is consistent with Comprehensive Plan 2040 allowing for more density within close proximity to a transit station and mixed-use developments while utilizing the existing infrastructure in place.

B. Blueprint Denver 2019

Blueprint Denver 2019 was adopted by Denver City Council on April 22, 2019. The Plan, as noted on p. 6, “provides the foundation for citywide policies and recommendations related to land use, transportation, design and growth.”

The Property is in the Urban Edge neighborhood context which is defined as “homes in the context are typically low-scale single and two unit residential with some small scale multi-unit residential...that is walkable and bikeable with access to transit but still reliant on cars.” Urban Edge accounts for proximity to public transit while providing infrastructure for quality of life around school and civic uses. Additionally, the property is within Low-Residential which states buildings are generally up to 2.5 stories in height with select sites being appropriate to introduce additional residential intensity. Based on the above, E-MU-2.5 meets this plan guidance for context and maximum height.

The application is requesting a zone map amendment from PUD 278 to E-MU-2.5 which is a zone district that would allow a building up to 2.5 stories or less. The Property has been operated as a multi-family property dating back to the '40's as the Applicant has no intention of changing the use from how it's been operated and intended operations dating back to its inception, but to bring into conformance to the applicable Denver Zoning Code while addressing realized and future growth.



The above map shows the diversity of property uses directly surrounding the property with G-MU and U-TU zoning designations. The below map provides a visual on how the Property lies on the exact edge, directly adjacent too General Urban and Urban designations with an alley being the boundary of a 3 story multi-family property directly to the West.



The application is consistent with the Blueprint Denver guidance being directly on the edge and ensuring the Applicant responds to the needs of the City as identified in Goal 6, section A to, “rezone properties from the Former Chapter 59 so that the entire city is covered by the DZC.” Additionally, within Goal 6, section B, we would be limiting the use of customized zoning tools such as the existing PUD. (Blueprint Denver, p.72). As evident by

the surrounding development, with a 5 story building being constructed less than a block away at 2049 Columbine and particularly at the University with Freshman housing, academic commons and other common places currently under construction on campus, E-MU-2.5 allows for anticipated growth while keeping the current use in-tact, preserving the feel of the neighborhood while allowing for growth next to a vibrant area surrounded, not just by the University, but commercial spaces allowing for dining, night life and sporting events. The proposed application is in alignment with the zoning request offering connectivity, remaining sensitive to the existing character of the neighborhood while offering residents a mix of uses and entertainment options. In conclusion, the proposed zoning allows for flexibility at a Property with diverse tenants ranging from college students to retirees. Being on the boundary permits the Property to remain flexible in its use while allowing for additional residential intensity, while adhering to the charm of the neighborhood and further integrating the University with the neighborhood.

C. University Park Neighborhood Plan (2007)

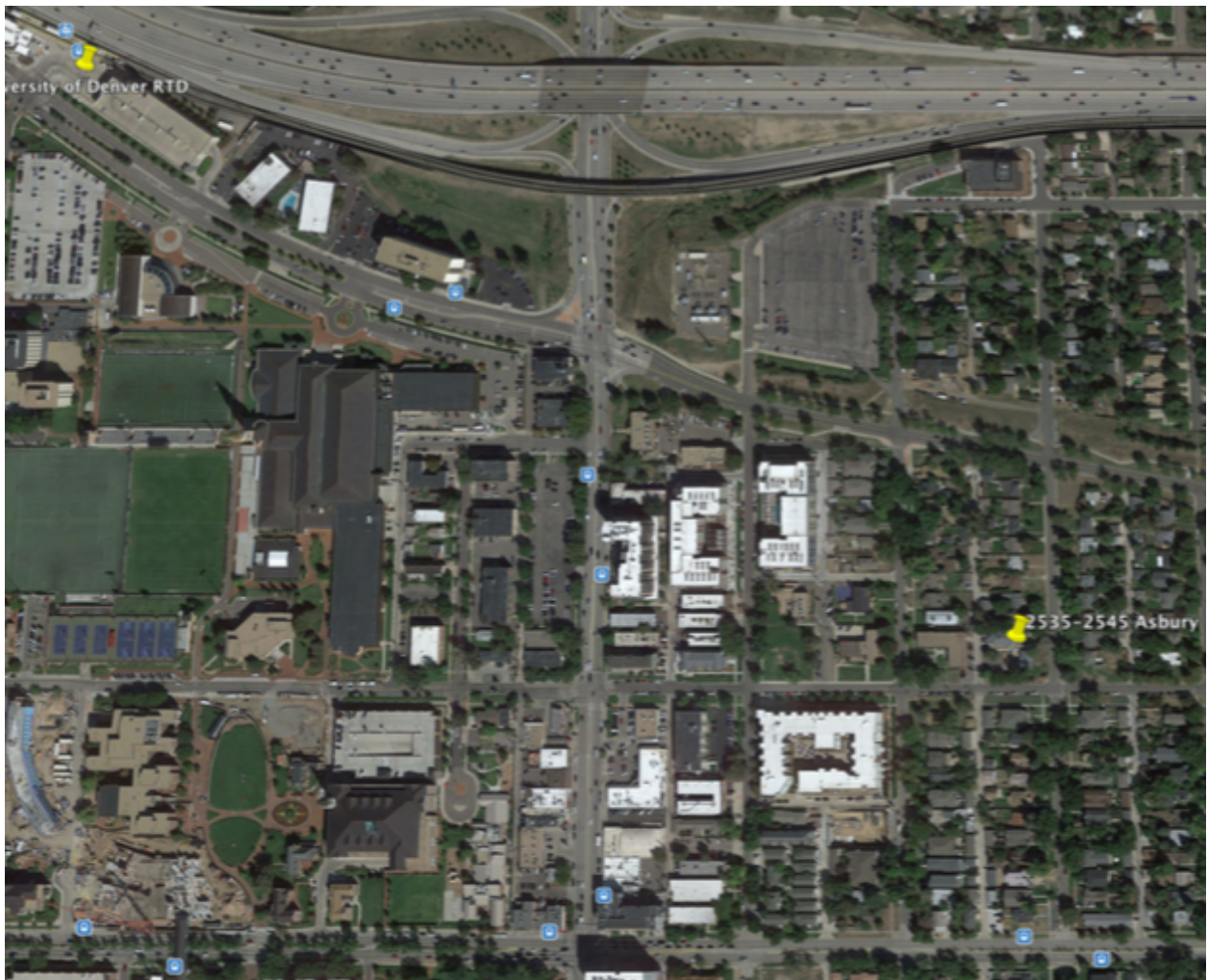
University Park Neighborhood Plan, dated September 8, 2008 has the vision, “To perpetuate and enhance the integrity of the University Park Neighborhood.” As mentioned within the visions is that the overriding plan to create a community based on a wide variety of uses including a goal to enhance the community through the relationship with the University of Denver, and to be a true transit oriented urban-neighborhood (University Park Neighborhood Plan 2007, p. 52,53). The application is consistent with goals 2, 3, and 4, Residential Neighborhood Character Stability, Compact, Mixed-Use Development near Transit and Diverse Housing Options in Appropriate Locations.

Goal 2, Residential Neighborhood Character Stability is to preserve the single-family nature of the University Parks residential neighborhood, and respect the urban design...” (University Park Neighborhood Plan, p. 60). Within this goal, Single-Family Residential identifies a focus to preserve the harmonious relationship between buildings and uses at edges of the neighborhood while minimizing parking impacts on the neighborhood. Additionally, goals of the Urban Neighborhood are to enhance Access to Transit and to be a Catalyst of Development which aims to achieve transit oriented development in Urban Neighborhoods. Additionally, within the District Plan Map (University Park Neighborhood Plan, p. 94), the property lies within the Single Family Residential Neighborhood nestled in between Colorado Station Urban Neighborhood to the East and the University Station Urban Neighborhood to the West. With our property being “Urban Residential” as its alley is the boundary between Urban and General Urban, with close proximity to public transit in addition to being operated as high intensity since the 1940’s, the application is consistent with adhering to goals identified and fostering a greater integrated neighborhood.

Goal 3, Compact, Mixed-Use Development near Transit states to “Create healthy neighborhood edges and encourage dense, compact and transit supportive growth...” (University Park Neighborhood Plan, p. 60). As identified in the below map, the property

resides within a ½ mile of the RTD station, bus stops and the Buchtel Trail facilitating multiple modes of transportation reducing the need for daily use of cars.

Goal 4, Diverse Housing Options in Appropriate Locations which states, “Diversity the mix of housing types near transit amenities to allow residents to age in place, live without the daily use of a car and accommodate the housing needs of empty nesters, students, young professionals and families” (University Park Neighborhood Plan, p. 60). The property and application addresses this goal by providing housing to students, young professionals and empty nesters as seen with the current tenants, while allowing for future growth in alignment with growth as a result of net migrations seen in Denver plus current development around the University.



The application and proposed zoning would allow the Property to continue in its current state of operation. Additionally, the proposed zoning would continue to allow for a wide variety of uses within close proximity to the University and public transit as identified above with the RTD station and multiple bus stops within walking distance effectively eliminating

the daily use of cars. Therefore, the Application is in alignment with the goals established, “Focus compact, mixed-use or high density residential development to places where it maybe be best integrated with the transportation system” (U-Park Neighborhood Plan 2007, p.9). Also, the application achieves goals both identified in Residential and Urban Neighborhoods which is only fitting for the Property based on the alley boundary between Urban and General Urban, allowing and therefore providing diver housing to a wide range of tenants.

II. Uniformity of District Regulations and Restrictions

The code requires that all zone amendments “result in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol designation on the official map.” The application satisfies the code in that the minimum lot size is 6,000 sf where the Property is 15,900 sf and adheres to the setbacks in the proposed zoning.

III. Further Public Health, Safety and Welfare

The Code requires that all zone amendments “further the public health, safety and general welfare of the City.” The application implements the objective by conforming to the vision and goals identified in all three adopted plans: Denver Comprehensive Plan 2040, Blueprint Denver 2019 and University Park Neighborhood Plan (2007).

Additional Review Criteria – Section 12.4.10.8

The code also requires that non-legislative rezoning meet the following additional criteria: (A) justifying circumstances; and (B) consistency with neighborhood context description, zone district purpose and intent statements.

A. Justifying Circumstances

A few of the Code’s justifying circumstances is that “the existing zoning of the land was the result of an error,” and “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. Such change may include: (c) That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 Zoning.” The application satisfies the code as PUD 278 identifies 21 units when 23 units have been operating at the Property. Additionally, the Property retains the Former Chapter 59 zoning and this application will bring this into current zoning adopted by the City and County of Denver.

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

The code requires that “the proposed map amendment is consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.” The application is consistent with the proposed zoning as we convert from the Former Chapter 59 PUD into the adopted Code. Additionally, based on the surrounding properties and growth trends in Denver, this Urban Edge Property would remain at 3 stories or less with close proximity to public transit.

Therefore, the Applications satisfies each of the review criteria provided under section 12.4.10.8

Conclusion

As the foregoing details, the Application satisfies the code’s requirements identified in Section 12.4.10.7 and 12.4.10.8. 2535 Asbury Partners, LLC. respectfully request approval of the Application and we look forward to bringing the Property out of the Former Chapter 59 Zoning, and into the recently adopted plans by the City and County of Denver. Please don’t hesitate to reach out if there are further questions, comments, or concerns.

Best Regards,

John Glaser
2535 Asbury Partners, LLC.

**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 rezoning@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 720-865-2974.

Application Number	#2019I-00243
Location	2535-2545 E Asbury Ave.
Registered Neighborhood Organization Name	University Park Community Council
Registered Contact Name	Candace Kristensson
Contact Address	PO Box 102407 Denver, CO 80250
Contact E-Mail Address	president@upcc.us,
Date Submitted	6/4/2020

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

was held on , with members in attendance.

With a total of members voting,

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

voted to oppose the application; and

voted to abstain on the issue.

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

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

Application # .

Comments:

From: [Planningboard - CPD](#)
To: [Morrison, Jason P. - CPD City Planner Senior](#)
Subject: FW: Denver's Planning Board Comment Form #13088679
Date: Friday, June 19, 2020 11:14:29 AM

From: form_engine@fs7.formsite.com <form_engine@fs7.formsite.com>
Sent: Friday, June 19, 2020 10:35 AM
To: Planningboard - CPD <planningboard2@denvergov.org>
Subject: Denver's Planning Board Comment Form #13088679



Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit www.DenverGov.org/planningboard.

Name	Ken G Grady
Address	5315 S Newland Ct
City	Littleton
State	Colorado
ZIP code	80123
Email	gradyken66@gmail.com
Agenda item you are commenting on:	Rezoning

Address of rezoning	2535-2545 E Asbury Ave
Case number	20191-00243
Would you like to express support for or opposition to the project?	Strong opposition
Your comment:	<p>As owner of next door property for 45 years (1998 S Columbine) the entire DU area has exploded in Apts and Condos. Parking has become impossible as new buildings charge so residents flood residential street parking for blocks. Parking already is severe. One hour limits have not helped. Lots of PUD and already rezoned properties have not been developed. The once tranquil area has become very dense, and the prestigious Univ Hill area is loosing its value as the once desirable pleasant residential homes continue to be encroached by higher density. You have to stop somewhere. Destroying the residential neighborhoods will not improve Denver</p>

This email was sent to planning.board@denvergov.org as a result of a form being completed.
[Click here](#) to report unwanted email.

From: form_engine@fs7.formsite.com on behalf of toby_at_mocuhealth.com
To: [Planningboard - CPD](#)
Subject: Denver's Planning Board Comment Form #13138716
Date: Wednesday, July 15, 2020 10:15:14 AM

Denver Logo



Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit www.DenverGov.org/planningboard.

Name	Toby Reed
City	Denver
State	Colorado
Email	toby@mocuhealth.com
Agenda item you are commenting on:	Rezoning
Address of rezoning	2535-2545 Asbury
Case number	20191-00243
Would you like to express support for or opposition	Strong support

**to the
project?**

**Your
comment:**

The owner has gone above and beyond with the public outreach and communicated the intent of the E-MU-2.5 zoning application. Based on the proximity of the school, evolving neighborhood and housing a diverse tenant base this modest zoning doesn't make a drastic change to how the property has been in use. Additionally, this allows for the growth that not just Denver is witnessing but the school is most likely forecasting based on the recent developments along High Street and Evans.

This email was sent to planning.board@denvergov.org as a result of a form being completed.
[Click here](#) to report unwanted email.

From: [Planningboard - CPD](#)
To: [Morrison, Jason P. - CPD City Planner Senior](#)
Subject: FW: Neighborhood comment re-zoning app 2019I-00243
Date: Tuesday, July 14, 2020 1:51:46 PM
Attachments: [Recent developments Univ Hills.jpg](#)
[Trashy 1.jpg](#)
[Trashy 2.jpg](#)
[Trashy 3.jpg](#)
[Trashy 4.jpg](#)
[Trashy 5.jpg](#)
Importance: High

From: Ken Murphy <kenmurphytx@hotmail.com>
Sent: Tuesday, July 14, 2020 11:44 AM
To: Planningboard - CPD <planningboard2@denvergov.org>
Cc: dencc - City Council <dencc@denvergov.org>
Subject: [EXTERNAL] Neighborhood comment re-zoning app 2019I-00243
Importance: High

RE: Re-zoning application 2019I-00243
Property address: 2535-2545 E. Asbury Ave.
Vote/decision expected: 07/15/2020

I live one-block from the proposed re-zoning site. The proposed re-zoning will further degrade the quality of life of the mostly single-family residential lot neighborhood as the re-zoned property will then be eligible to increase its unit population; and thus, people density and vehicle density in an already overwhelmed neighborhood.

The property is currently required not to exceed 21 units, for which it currently violates City code with 23 units and the City has taken no action to enforce its own code. The City should enforce its own existing code instead of rewarding non-compliance with re-zoning to allow another large complex to penetrate the neighborhood.

The Community Planning & Development (CPD) review and applicant proposal both fail to mention that the neighborhood has already become highly populated by recently approved large-scale apartments and other housing development projects that have flooded the neighborhood and negatively altered its character. The extensive neighborhood alteration negates the CPD stance that the encroachment into the neighborhood is part of Blueprint Denver's goal to transition between residential building forms; in fact, the current property with its current zoning designation does that very goal already. Allowing development on the proposed re-zoned site will hurt the transition by allowing another large apartment complex development immediately adjacent to single-family residential lot homes. Re-zoning does not need to occur for a property that already meets the intended goal of Blueprint Denver because a 21/23-unit apartment complex already exists on the property that transitions into the neighborhood.

From the attached aerial view map (provided by CPD), I am providing a more transparent reveal of the onslaught of developments that are degrading the once family-oriented neighborhood; I have added red-boxes that show multi-family developments approved within approximately the last three years, and blue-boxes for multi-family developments approved prior to the last three years.

Transient student population from the nearby University of Denver already occupy the wealth of recently developed massive apartment complexes in the neighborhood, and the developer of the discussed site admits in their own application for re-zoning that their property is mostly housed by students. The CPD evaluation ignores a realistic view of the vehicle parking problem, traffic impact, and pollution created by the vehicles flooding the intended family neighborhood. For the discussed

site, it comprises 23 living units, but only 19 parking spaces. Realistically, each unit has at least two people (students) living in one unit, each with their own vehicle. That means, there are at least 46 vehicles for a property with only 19 parking spaces; 27 vehicles are forced to park on the neighborhood streets.

Development approval in the neighborhood has a pattern of ignoring the reality of vehicle parking, traffic, and pollution that negatively affects the neighborhood. The reality is that because we are a neighborhood near a university, multiple transient students typically share one living unit. Like the discussed property with only 19 parking spaces for at least 46 vehicles, the list of recently approved projects repeats with inadequate parking and significant traffic increases negatively affecting the neighborhood; and keep in-mind that almost every development used to be a single-family lot with likely only 2 vehicles:

- 1945 S. Columbine (2019180795) 12 units, only 20 parking (needs 24 parking)
- 2049 S. Columbine (2019020812) 45 units, only 43 parking (needs 90 parking)
- 1960 S. Columbine (2018144442) 8 units, only 5 parking (needs 16 parking)
- 2059 S. Milwaukee (2018014803) 5 units, only 5 parking (needs 10 parking)
- 1985 S. Josephine (201623608) 10 units, only 5 parking (needs 41 parking); this Alpha Phi sorority house admits on their own website that the property, “sleeps 40 sisters, along with our wonderful house mom!” This site used to have one single-family house (2 parking, now 41 parking needed).
- Generally, all developments have inadequate parking (see attached development map)

As you can see from the attached five photos of the discussed property (taken 07/14/20), the property owners/developers currently do not maintain the appearance of their property in our neighborhood; their lack of care and lack of respect for the neighborhood will only be amplified with a larger apartment complex.

Like other developments that have flooded the neighborhood, we do not need another large development encroaching into the neighborhood with inadequate parking. The existing property and zoning currently meets Blueprint Denver’s goal, and no zoning change is needed.

Please help save our neighborhood!

Respectfully,
Ken Murphy
1950 S. Fillmore St.
303-725-5685

From: [Planningboard - CPD](#)
To: [Morrison, Jason P. - CPD City Planner Senior](#)
Subject: FW: Denver's Planning Board Comment Form #13137359
Date: Tuesday, July 14, 2020 3:49:01 PM

From: form_engine@fs7.formsite.com <form_engine@fs7.formsite.com>
Sent: Tuesday, July 14, 2020 3:46 PM
To: Planningboard - CPD <planningboard2@denvergov.org>
Subject: Denver's Planning Board Comment Form #13137359



Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit www.DenverGov.org/planningboard.

Name	David Williams
Address	1323 Elm st
City	Denver
State	Colorado
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Agenda item you are commenting on:	Rezoning

Address of rezoning 2535 -2545 Asbury ave, Denver, co

Case number 20191-00243

Would you like to express support for or opposition to the project? Strong support

Your comment: Based on the growth of DU and surrounding neighborhood, I agree with the owner, who has the right intent with his proposed rezoning that coincides with adjacent buildings and good transition from high rise to smaller multi family properties.

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