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**TO:** Denver City Council  
**FROM:** Elizabeth Weigle, Senior City Planner  
**DATE:** September 5, 2019  
**RE:** Official Zoning Map Amendment Application #2018i-00184

### Staff Report and Recommendation

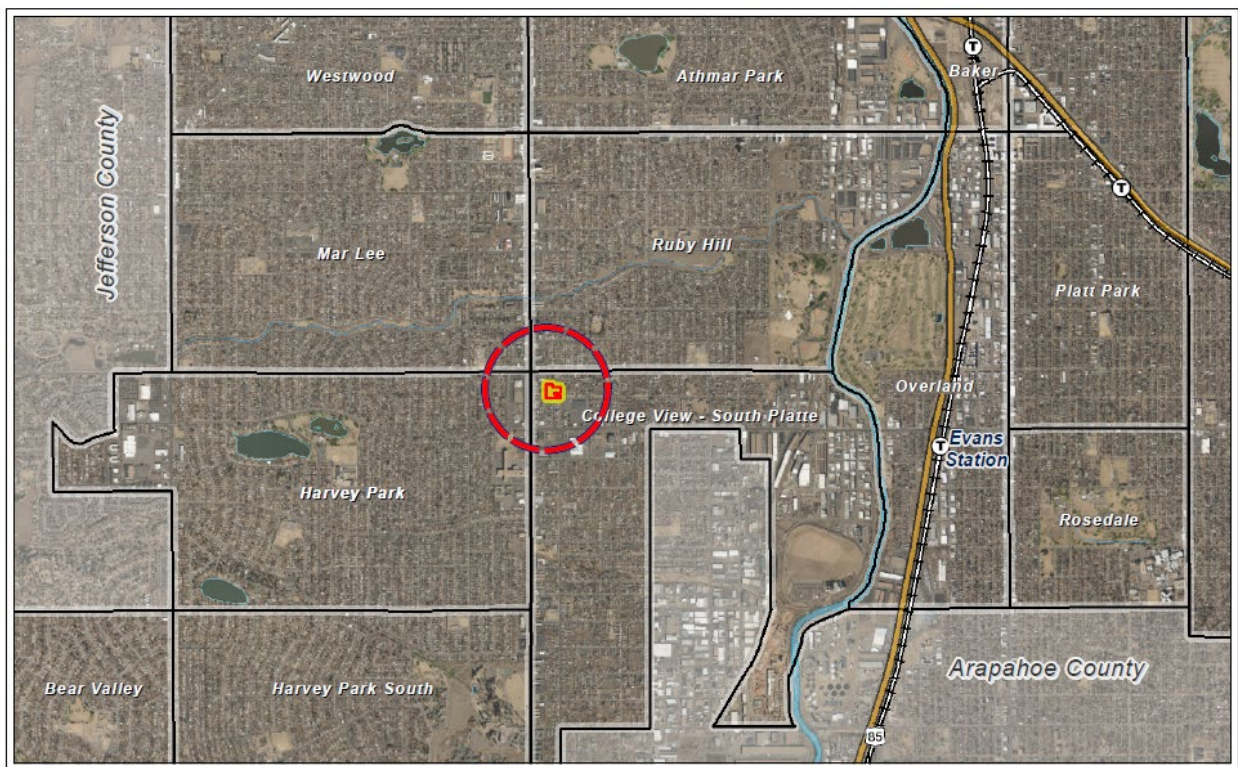
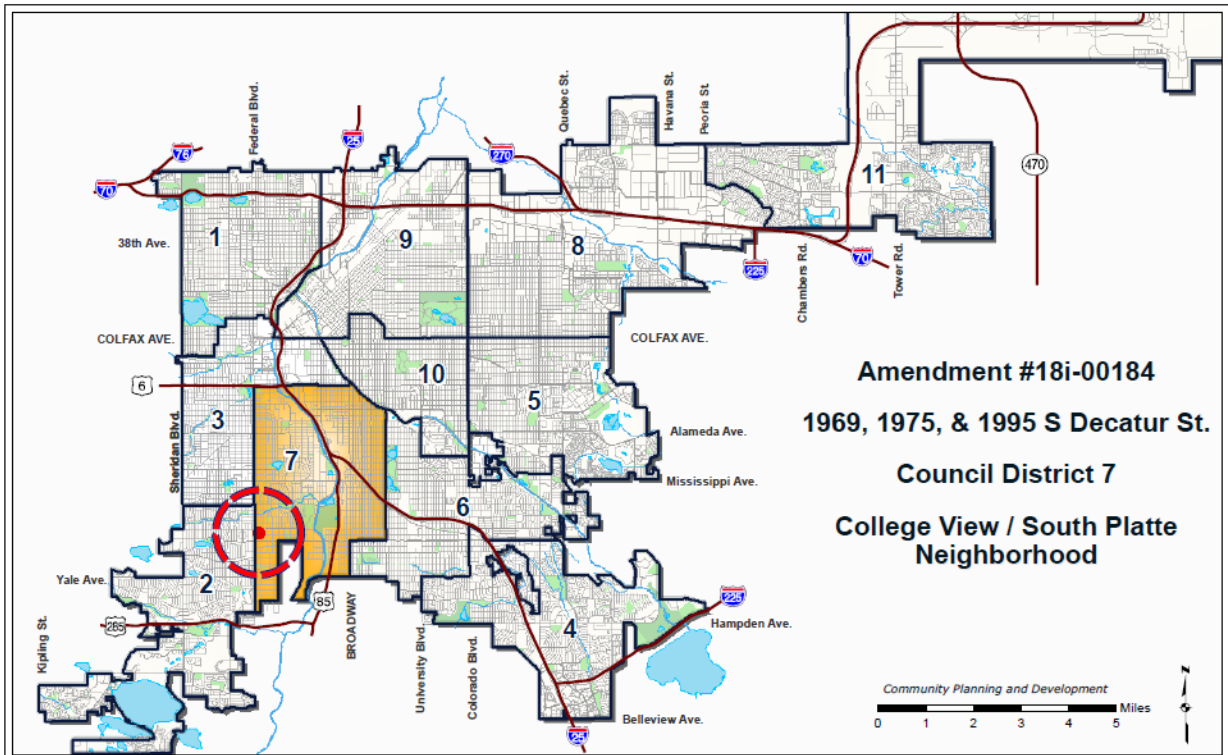
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2018i-00184.

### Request for Rezoning

Address: 1969, 1975, & 1995 S. Decatur Street & 1957 S. Decatur Street Rear  
Neighborhood/Council District: College View – South Platte / Council District 7  
RNOs: Southwest Denver Unidos; Ruby Hill Neighbors; College View Neighborhood Association; Inter-Neighborhood Cooperation  
Area of Property: 70,209 square feet  
Current Zoning: R-2-A (Former Chapter 59)  
Proposed Zoning: S-MU-3  
Property Owner(s): Cherry Tree Apartments LLC  
Owner Representative: Joseph Friedmann

### Summary of Rezoning Request

- The subject property is in the College View – South Platte statistical neighborhood at the northwest corner of S. Decatur Street and W. Asbury Avenue.
- The property is occupied by three apartment buildings.
- The applicant is requesting this rezoning to bring the property under the Denver Zoning Code.
- The proposed zone district, S-MU-3 (Suburban **M**ulti-**U**nit – **3** stories), allows for residential uses in the suburban house, duplex, row house, and apartment building forms up to a maximum height of three stories. Further details of the proposed zone district can be found in Article 3 of the Denver Zoning Code (DZC).
- The site is currently zoned R-2-A. R-2-A is a Former Chapter 59 zone district that allows medium density multi-unit dwellings. 1,500-2,000 square feet of lot area is required for each unit. The current buildings on the site were developed under a Planning Building Group (PBG).



## Existing Context



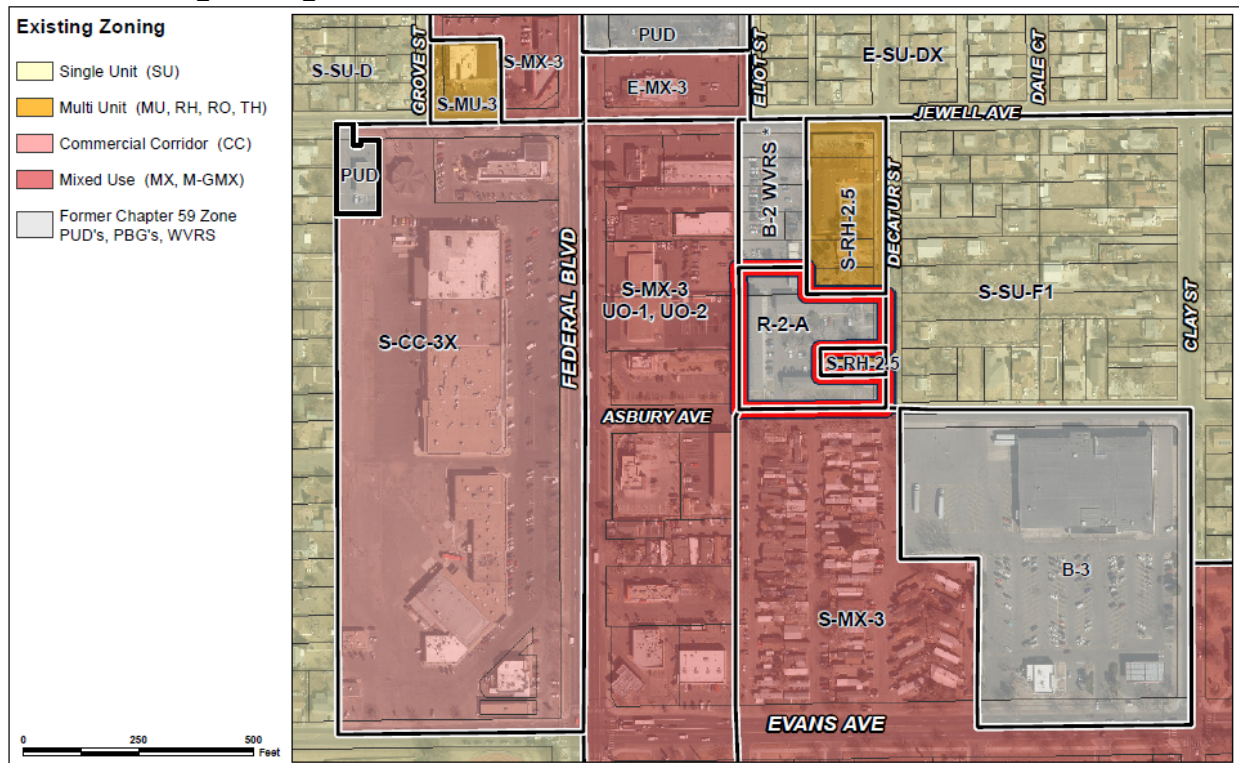
The subject property is located in the College View – South Platte statistical neighborhood at the northwest corner of S. Decatur Street and W. Asbury Avenue. The neighborhood generally consists of low-scale residential uses to the east and north and commercial uses to the west along Federal Boulevard and to the south along W. Asbury Avenue. The site is within one block of the 36, 29, 30, and 31 bus routes.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	R-2-A	Multi-unit residential	Two two-story multi-unit building; one three-story multi-unit building; one-story garage; open parking	Generally regular grid of streets, with some of the larger commercial parcels interrupting the grid.
North (and out parcel)	B-2 with waivers and conditions; S-RH-2.5	Parking; single- and multi-unit residential	One-story houses and a one-story multi-unit building	Vehicular access is generally from the street with vehicle parking in front of buildings. Alleys are generally not present
South	S-MX-3; B-3	Multi-unit residential; grocery store	Mobile homes; one-story commercial building with open parking	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	S-SU-F1	Single-unit residential	One- and two-story homes	south of Jewell Avenue.
West	S-MX-3 UO-1, UO-2	Commercial, industrial (auto repair)	One-story buildings with open parking	

### 1. Existing Zoning



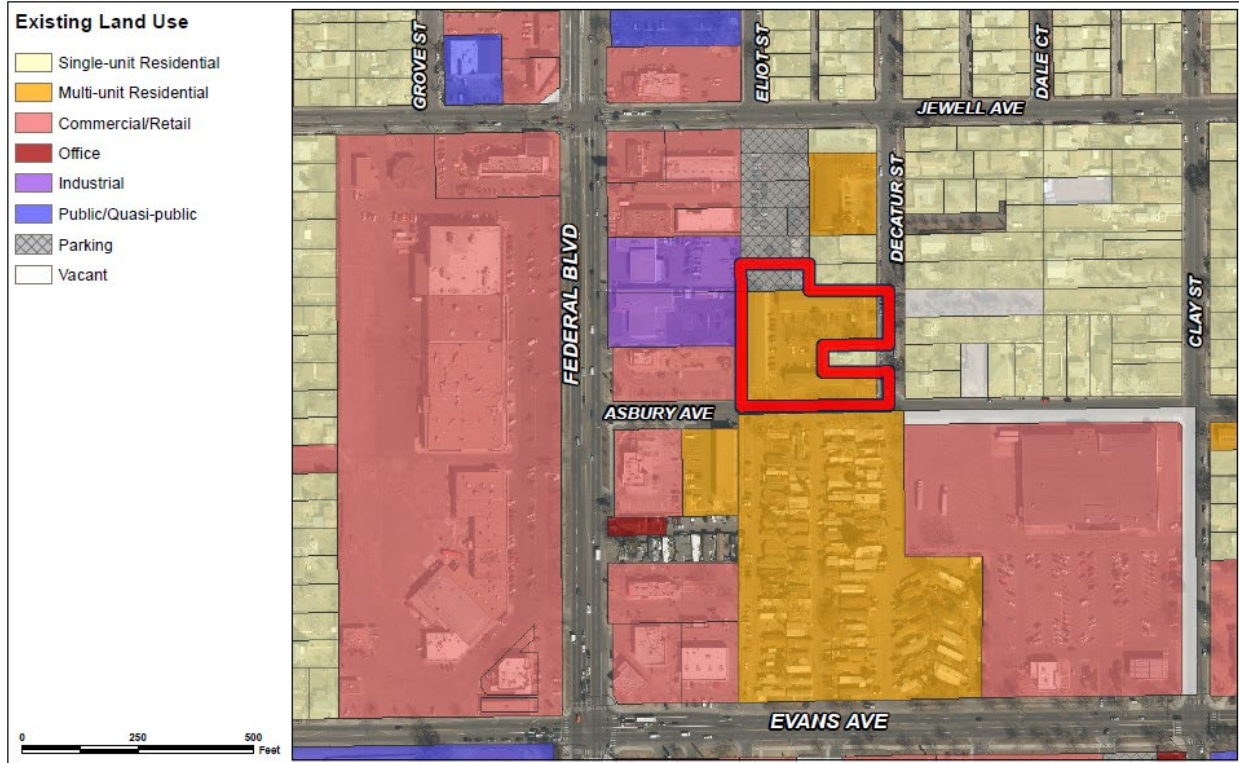
The site is R-2-A, which is a Former Chapter 59 zone district. The district allows medium density multi-unit buildings. 2,000 square feet of land is generally required for each dwelling unit, though this can be reduced to 1,500 square feet per unit for a Planned Building Group. Building height is governed by bulk plane and cannot exceed 110 feet.

### 2. View Plane

The subject site is within the Ruby Hill Park mountain view plane, which protects views from Ruby Hill Park toward the mountains to the west. The view plane limits height on the property to approximately 75-80 feet, which is above the maximum building height of 40 feet allowed in the S-MU-3 zone district.

### 3. Existing Land Use Map

The subject site is occupied by three multi-unit buildings and parking areas. Surrounding uses include single-unit residential, multi-unit residential, commercial, industrial, and parking uses.



#### 4. Existing Building Form and Scale

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



Aerial view of subject property, looking north.



View of subject site on S. Decatur Street, looking west. The photo also shows the out parcel along S. Decatur Street that is not proposed to be rezoned.



View of subject site on W. Asbury Avenue, looking northeast.



View of the property to the west of the subject site on S. Federal Blvd., looking east.



View of property to the south of the subject site across W. Asbury Avenue, looking south.



View of property to the east of the subject site across S. Decatur Street, looking east.



View of property to the north of the subject site on S. Decatur Street, looking southwest.





View of property to the north of the subject site on W. Jewell Avenue, looking south.

### Proposed Zoning

The **S-MU-3**, **S**uburban, **M**ulti-unit, **3**-story district is a multi-unit zone district in the suburban context. In the S-MU-3 zone district the Suburban House, Duplex, Row House and Apartment building forms are allowed primary building forms. Maximum height allowed is three stories or 40 feet. Further details of the zone district can be found in Article 3 of the Denver Zoning Code.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	R-2-A (existing)	S-MU-3 (proposed)
Primary Building Forms Allowed	n/a	Suburban House, Duplex, Row House and Apartment
Height in Stories/Height in Feet (max)	Determined by bulk plane; cannot exceed 110'	3/40'*
Primary Build-To Percentages (min/max)	n/a	Row House, Apartment: 50% Other forms: no build-to
Primary Build-To Ranges	n/a	Row House, Apartment: 0' to 80' Other forms: no build-to
Minimum Zone Lot Size/Width	Min. 50 feet and 6,000 SF, except when lot has more than 3 dwelling units, 1,500-2,000sf per unit is required	Suburban house: 6,000sf/50' Duplex: 4,500sf/37.5' Row House, Apartment: 6,000sf/50'
Primary Setbacks (min)	20' generally; 15' average but no less than 10' in PBG.	Suburban House, Duplex: Block sensitive or 15'-20'*** Row House, Apartment: Block sensitive or 10'

Building Coverage	n/a; 900-1,000sf of open space per dwelling unit in PBG	Suburban House, Duplex: 50% Other forms: no max building coverage
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\*Standards varies between building forms

\*\*Standards vary based on 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:

**Department of Public Health & Environment:** Approved – see comments.

- Notes:
  - Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning; however, an area of historical urban fill (HUF) may exist under portions of the site. The HUF may be encountered during future soil disturbing activities and impacted soil or debris must be managed and disposed of in accordance with state and federal regulation.
  
- General Notes:
  - Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
  - If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.
  - The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.
  - Denver’s Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are

allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

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

**Public Works – ROW - City Surveyor:** Approved – no comments

**Development Services – Wastewater:** Approved with comments

- DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

**Asset Management:** Approved - No Comments.

**Assessor:** No response – Approved.

**Denver Public Schools:** No response – Approved.

**Parks & Recreation:** No response – Approved.

**Development Services – Transportation:** No response – Approved.

**Development Services – Project Coordination:** No response – Approved.

**Development Services – Fire Prevention:** No response – Approved.

## 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:	2/25/19

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:	<b>6/25/19</b>
Planning Board public hearing	<b>7/10/19</b>
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	<b>7/16/19</b>
Land Use, Transportation and Infrastructure Committee of the City Council:	<b>7/30/19</b>
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:	<b>8/19/19</b>
City Council Public Hearing:	<b>9/9/19</b>

- **Registered Neighborhood Organizations (RNOs)**
  - The RNOs identified on page 1 were notified of this application. To date, staff has not received comments from the RNOs.
- **Planning Board**
  - Planning Board voted unanimously (10-0) to recommend approval of the map amendment.
  - There were no public speakers.

### **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 if the rezoning:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*

**Denver Comprehensive Plan 2040**

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

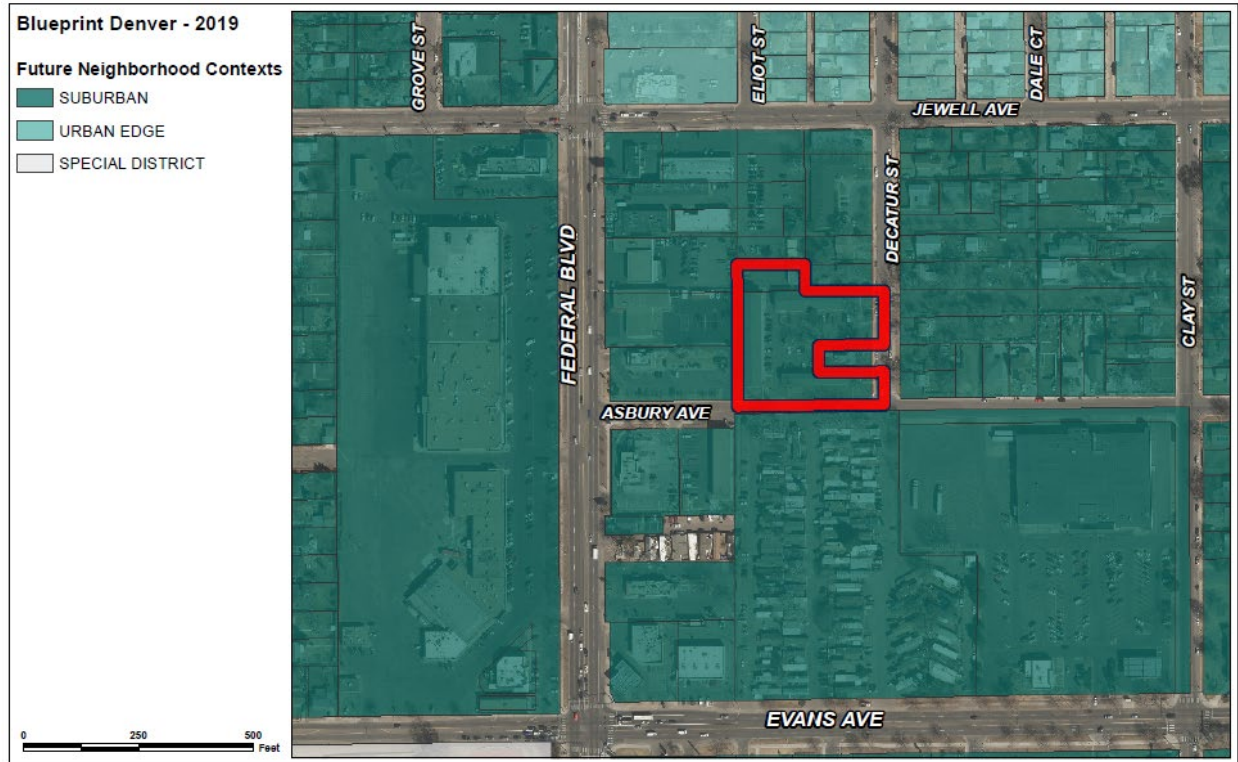
- *Equitable, Affordable, and Inclusive Goal 1, Strategy A – Increase the development of housing units close to transit and mixed-use developments (p. 27).*
- *Equitable, Affordable, and Inclusive Goal 2, Strategy A – Create a greater mix of housing options in every neighborhood for all individuals and families (p. 27).*
- *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).*
- *Environmentally Resilient Goal 8, Strategy 8 – Promote infill development where infrastructure and services are already in place (p. 54).*

The proposed map amendment will enable continued operation and maintenance of multi-unit housing in close proximity to transit and amenities. The S-MU-3 allows for a variety of residential building forms and includes form standards that ensure development is consistent with the surrounding neighborhood. The rezoning is consistent with Denver Comprehensive Plan 2040.

**Blueprint Denver (2019)**

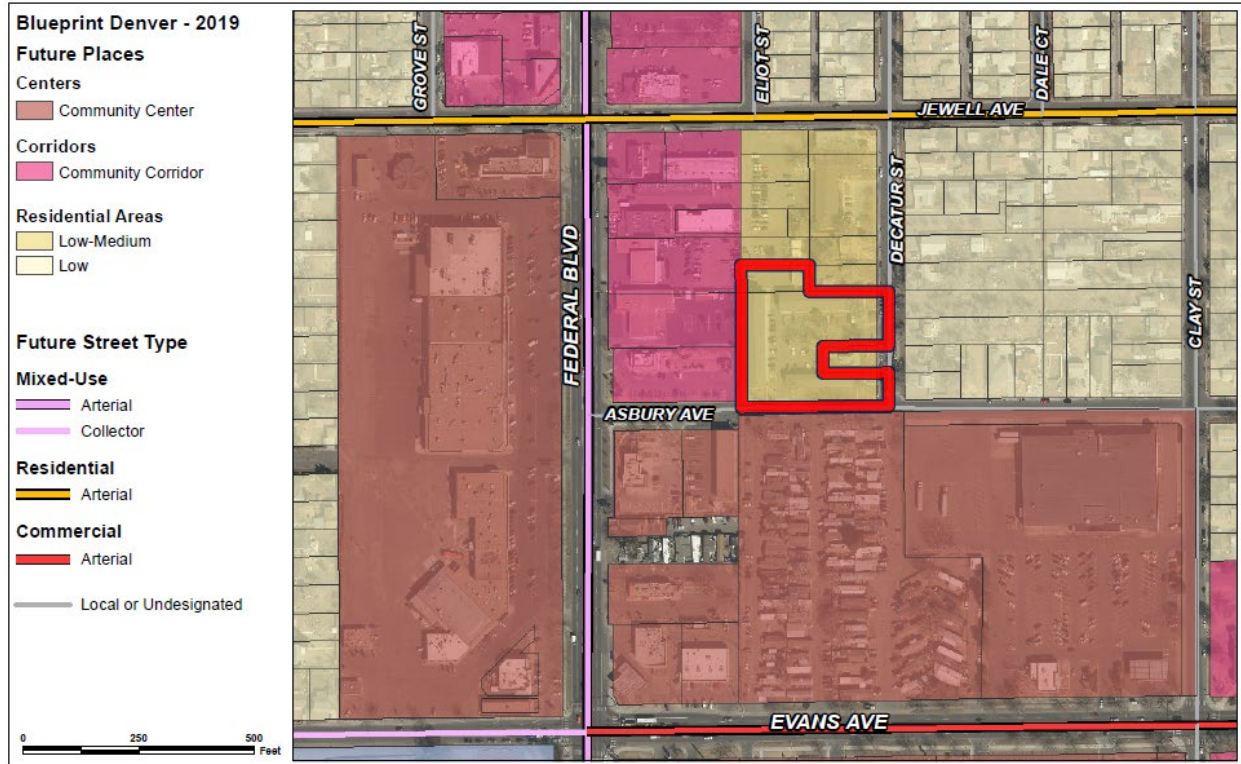
Blueprint Denver identifies the subject property as a Low Medium Residential area within the Suburban Neighborhood Context and provides guidance from the future growth strategy for the city.

### Future Neighborhood Context



The subject property is within the Suburban Neighborhood Context. “The suburban context represents the most varied development in Denver’s neighborhoods. Homes in this context are largely single-unit, but can also include higher intensity residential. Commercial development is focused along main corridors and centers bordering residential areas. Although this context is more auto-oriented than others, there should still be quality multimodal connectivity” (p. 185). The proposed S-MU-3 zone district is part of the Suburban context in the DZC. The residential zone districts are intended to “promote and protect residential neighborhoods within the character of the Suburban Neighborhood Context” and “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 3.2.2.1). Further, “standards of the row house and multi unit districts promote existing and future patterns of multiple buildings on a single zone lot” (DZC 3.2.2.1). The proposed S-MU-3 district is a multi-unit district that allows a mix of residential building forms, consistent with the surrounding Suburban character. The proposed rezoning is consistent with Blueprint Denver’s context guidance.

### Future Places

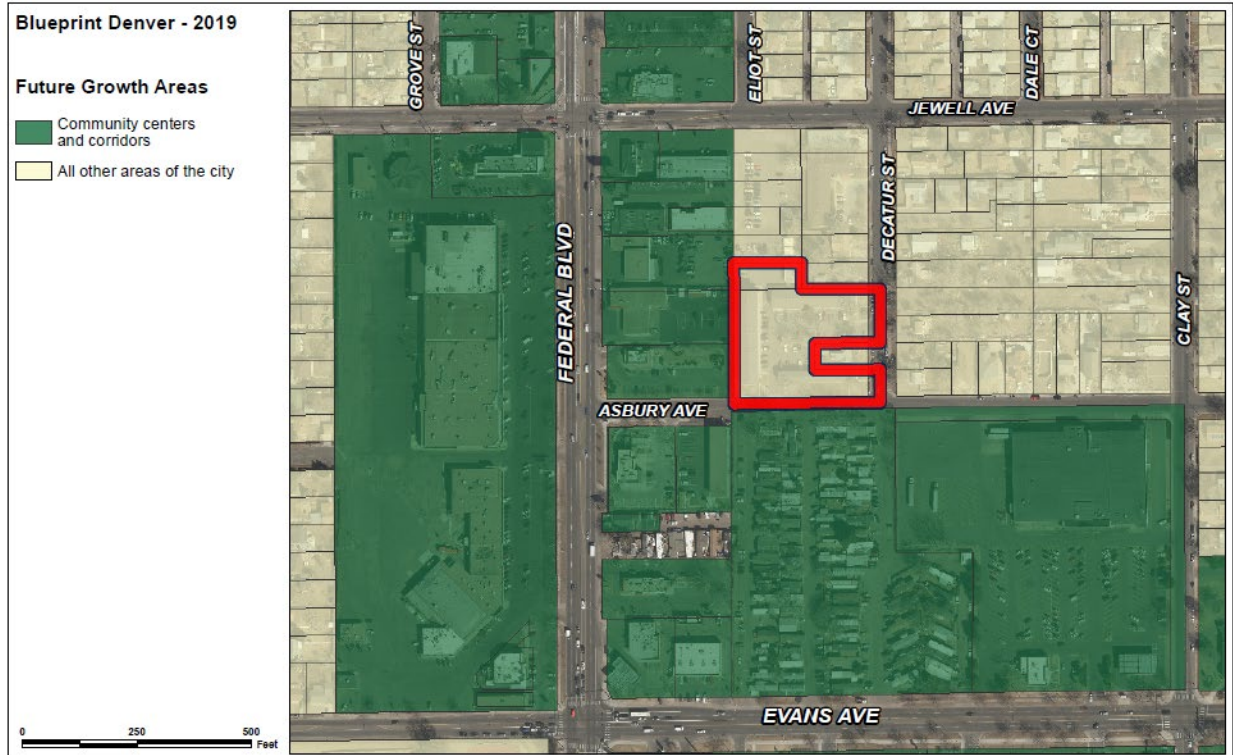


The Future Places map designates the subject property as a Low-Medium Residential Area. Blueprint Denver describes the aspirational characteristics of Low-Medium in the Urban Edge context as “a mix of low- to mid-scale multi-unit residential options...small-scale multi-unit buildings are interspersed between single- and two-unit residential....buildings are generally 3 stories or less in height” (p. 212). Consistent with this guidance, the proposed S-MU-3 district allows a mix of building forms, including suburban house, duplex, row house, and apartment. The 3-story district height is consistent with the existing and surrounding context and appropriate for the low medium designation in this location.

### Street Types

Blueprint Denver classifies S. Decatur Street and 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). The use and built form characteristics of local streets are described as follows: “Local streets can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 161). The proposed S-MU-3 district is consistent with these descriptions. Further, the immediate vicinity of the site is served by more intense streets, including arterials on S. Federal Boulevard, Jewell Avenue, and Evans Avenue.

### Growth Strategy



In Blueprint Denver, this subject property is within areas of the city that are expected to see 20% of new housing growth and 10% of new employment growth by 2040 (p. 50- 51). These areas are expected to take a smaller amount of growth than other areas of the city, and the growth is “intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed map amendment to S-MU-3 will allow for multi-unit housing consistent with the existing context of the site and neighborhood. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

### Former Chapter 59 and Custom Zoning

Blueprint Denver recommends “rezon[ing] properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC...” (p.73). The proposed rezoning from Former Chapter 59 zone district to a DZC zone district is consistent with Blueprint Denver’s recommendations.



## **2. Uniformity of District Regulations and Restrictions**

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

## **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City through implementation of the city's adopted plans and applying the modern zoning regulations of the Denver Zoning Code to the subject property. Further, the proposed S-MU-3 district will provide more predictable building forms and height than the bulk plane standards in the current Former Chapter 59 zone district.

## **4. Justifying Circumstance**

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4.c., "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: That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The subject property is currently zoned under Former Chapter 59. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance.

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

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

The requested rezoning is consistent with the General Purpose of Residential Districts because the zone district will promote and protect residential neighborhoods within the Suburban Neighborhood Context. The zone district will provide predictable building forms, allow for reinvestment in this existing development, and accommodate possible future redevelopment that furthers the district's goals (DZC 3.2.2.1). The Specific Intent of the S-MU-3 is defined by DZC Section 3.2.2.1 as follows: "S-MU- is a multi unit district and allows suburban house, duplex, town house, garden court and apartment building forms up to 3, 5, 8, 12, 20 stories in height." The requested rezoning is consistent with the Specific Intent of the S-MU-3 zone district because the site and much of the immediate context are characterized by multi-unit uses.

## **Attachments**

1. Application