



**TO:** Denver City Council  
**FROM:** Ella Stueve, Senior City Planner  
**DATE:** June 20, 2019  
**RE:** Official Zoning Map Amendment Application #2018I-00114

### Staff Report and Recommendation

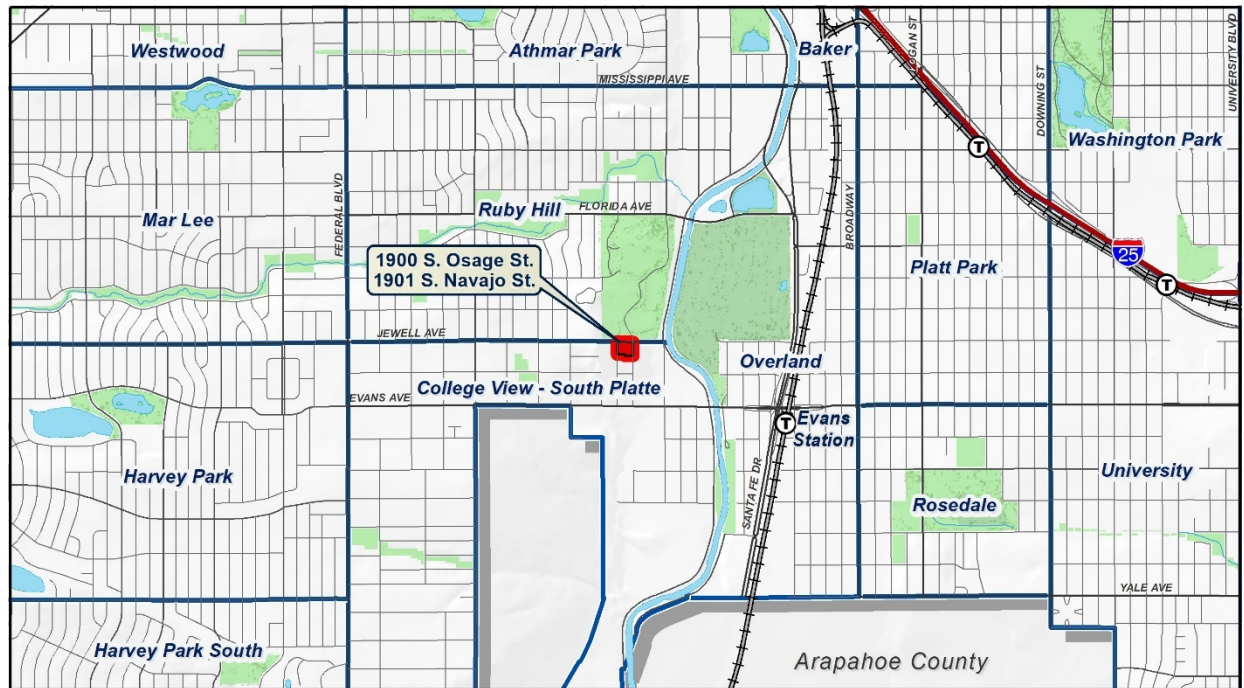
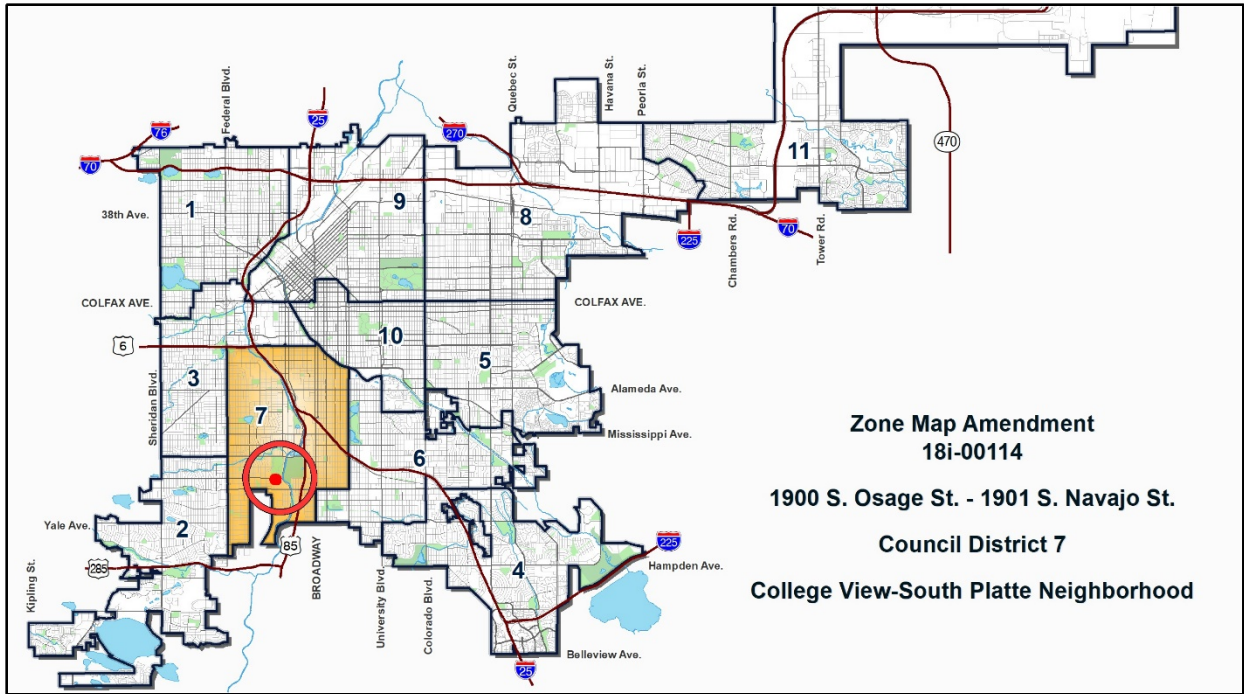
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** of Application #2018I-00114.

### Request for Rezoning

Address:	1901 S. Navajo Street and 1900 S. Osage Street
Neighborhood/Council District:	College View – South Platte Neighborhood / Council District 7
RNOs:	Inter-Neighborhood Cooperation (INC), Ruby Hill – Godsmen Neighborhood Association, Southwest Denver Unidos
Area of Property:	63,175 square feet or 1.45 acres
Current Zoning:	I-MX-3
Proposed Zoning:	I-MX-5
Property Owner(s):	Ruby River LLC and Ruby River Navajo LLC
Owner Representative:	David Burton, Real Architecture

### Summary of Rezoning Request

- The subject property is in Council District 7 in the College View – South Platte statistical neighborhood. It is between S. Osage Street and S. Navajo Street on the south side of Jewell Avenue.
- 1901 S. Navajo Street is currently a single-story building containing office uses, and 1900 S. Osage is vacant and serving as a parking lot. The requested rezoning is intended to facilitate redevelopment of the site, including residential units.
- The requested zone district, I-MX-5, is defined as Industrial Context, Mixed-Use, 5-story maximum height, which accommodates industrial and general building forms and is intended to provide a transition between heavier industrial uses in the I-A and I-B zones with development that takes a more pedestrian-oriented form characterized by buildings built up to the street and an active Street Level. Further details of the zone districts can be found in Article 9 of the Denver Zoning Code (DZC).





### Existing Context

The subject site is between S. Osage Street and S. Navajo Street on the south side of Jewell Avenue. The area is characterized by a mix of industrial uses to the south and southeast with several office or commercial/retail uses interspersed. There are several vacant sites to the south and southwest, transitioning to residential character a few blocks away. Ruby Hill Park is directly north of the site, and the South Platte River is one block to the east. Transit access includes a bus route on Evans Avenue with stops approximately a quarter mile from the subject site. The Evans Station light rail stop is approximately one mile away.

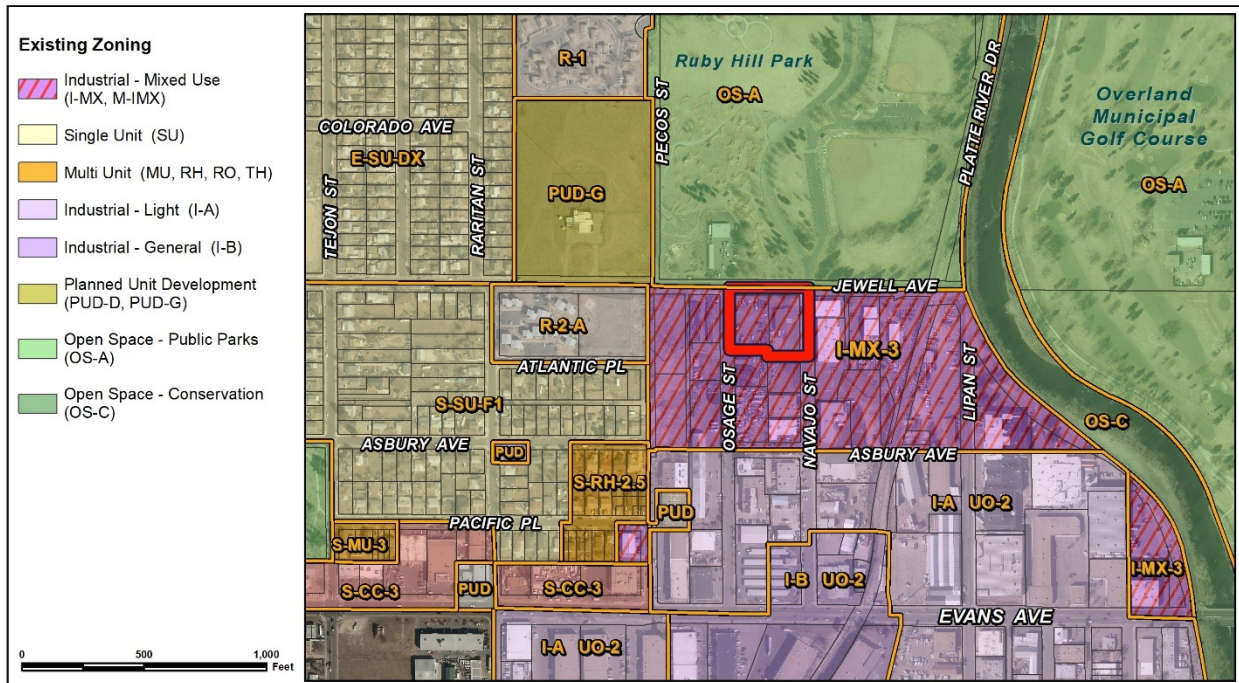
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-MX-3	Office, vacant	1-story office building with large setback	Generally irregular blocks due to streets terminating at large lots, resulting in an irregular block pattern within a larger orthogonal grid; this grid is interrupted by the South Platte River, Ruby Hill Park, and a
North	OS-A	Park	Open space with scattered, 1-story maintenance and pavilion structures	
South	I-MX-3	Industrial, vacant	1- to 2-story industrial buildings	
East	I-MX-3	Industrial	1-story industrial buildings	



	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
West	I-MX-3	Vacant	Vacant	rail line. Alleys are generally not present, and vehicles park on the street.

### 1. Existing Zoning

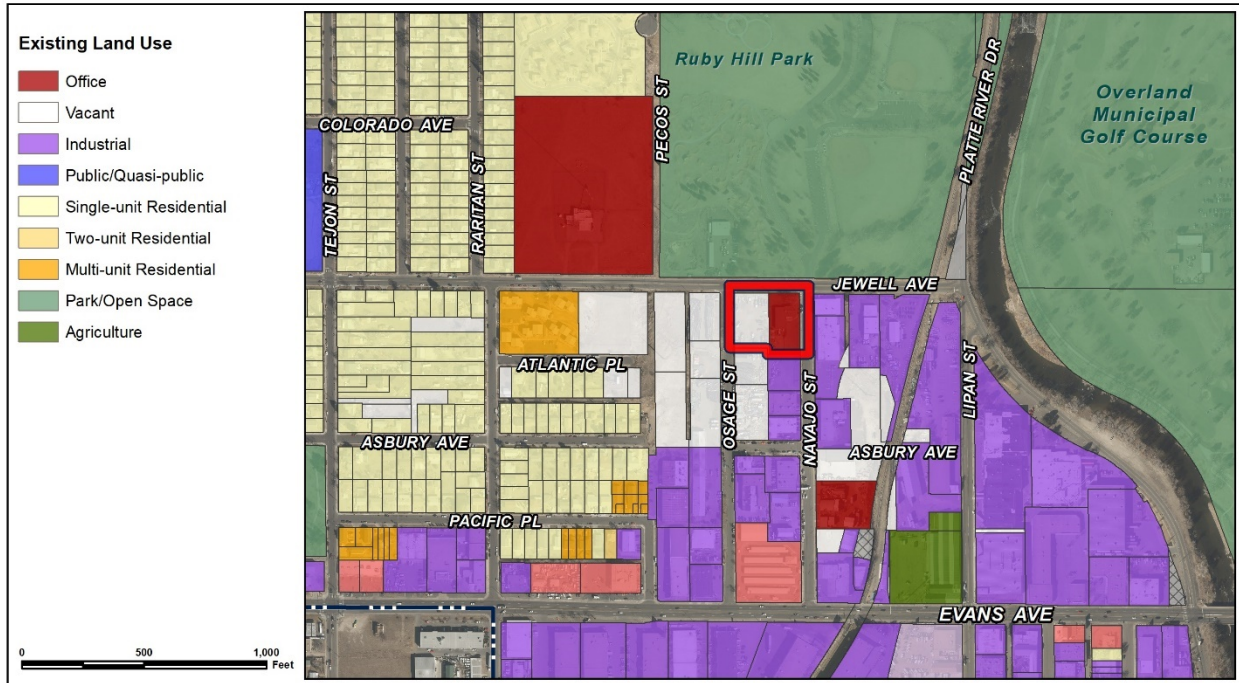


The current zone district, I-MX-3, is defined as Industrial Context, Mixed-Use, 3-story maximum height, which accommodates industrial and general building forms and is intended to provide a transition between heavier industrial uses in the I-A and I-B zones with development that takes a more pedestrian-oriented form characterized by buildings built up to the street and an active Street Level. I-MX-3 applies to industrially-dominated areas served primarily by local or collector streets. For additional details on the zone district, see DZC Division 9.1.

### 2. View Planes

The subject property is within the Ruby Hill Park Mountain View Plane. Allowable heights on the site range from approximately 65 feet in the northwest corner of the subject property to approximately 94 feet in the southeast corner. The building height maximum for I-MX-3 is 70 feet. Any new building will have to comply with the View Plane regardless of zoning entitlement; therefore the allowed height may be slightly lower on some portions of the site than would be allowed by the proposed zone district.

### 3. Existing Land Use Map



### 4. Existing Building Form and Scale

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



View of the subject property looking south from Jewell Avenue.





View of the subject property looking north from an aerial view.



Maintenance building in Ruby Hill Park looking north from Jewell Avenue.



South of subject site looking west from S. Navajo Street.



Southwest of subject site looking west from S. Osage Street.





East of subject site looking northeast from S Navajo Street.

### **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 Response

**Asset Management:** Approved – No Response

**Denver Public Schools:** Approved – No Response

**Department of Environmental Health:** Approved – See comments

Notes. DDPHE concurs with the rezoning request; however, aerial photographs of the property show areas of apparent staining on portions of the site. DDPHE requests available information the applicant may have showing that the environmental characteristics of site soil are consistent with proposed future uses including residential.

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.

**Parks and Recreation:** Approved – No Response

**Public Works – ROW - City Surveyor:** Approved – See Comments

City surveyor provided updated language, which the applicant incorporated in an updated legal description.

**Development Services - Transportation:** Approved – No Response

**Development Services – Wastewater:** Approved – No Response

**Development Services – Project Coordination:** Approved – See comments

Approve Rezoning Only – Will require additional information at Site Plan Review. This re-zoning is consistent with Zoning objectives.

**Development Services – Fire Prevention:** Approved – No Response

## 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:		11/21/18

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:	4/1/2019
Planning Board unanimously recommended approval:	4/17/2019
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:	4/22/2019
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	5/7/2019
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:	6/3/2019
City Council Public Hearing:	6/24/2019

- **Registered Neighborhood Organizations (RNOs)**
  - Ruby Hill Neighbors, a registered neighborhood organization, submitted a position statement in support of the rezoning, with 14 members voting to support and one member voting to oppose the application.
- **Other Public Comment**  
 As of the date of this staff report, two letters were received expressing support for the application, citing recent investment in Ruby Hill Park and the need for higher density development surrounding the park to increase safety and security and to bring users to the park. See the attached correspondence for the full text of these public comments.

### **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*
- *Blueprint Denver (2019)*

***Denver Comprehensive Plan 2040***

The proposed rezoning is consistent with many of the *Denver Comprehensive Plan 2040* strategies, including:

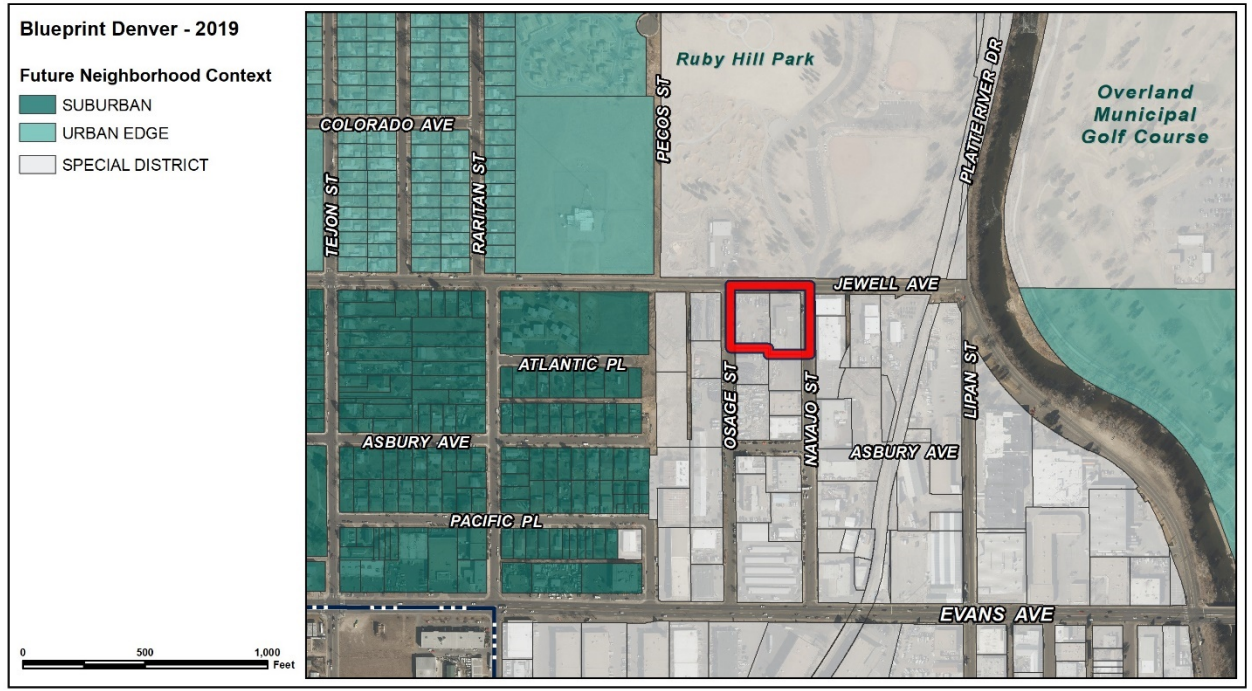
- Equitable, Affordable and Inclusive Goal 1, Strategy C: *Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts (p. 28).*
- Equitable, Affordable and Inclusive Goal 2, Strategy B: *Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options (p. 28).*
- 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 A: *Promote infill development where infrastructure and services are already in place (p. 54).*
- Environmentally Resilient Goal 8, Strategy B: *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods (p. 54).*

The proposed map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested I-MX-5 zone district increases the allowed density, thereby increasing the number of residents or employees who can live, work and play in the area. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

***Blueprint Denver (2019)***

Although not yet adopted by City Council, *Blueprint Denver 2019* is anticipated to be adopted by City Council by the time this map amendment will be at council for public hearing, therefore it is relevant to this request. The proposed rezoning was reviewed for consistency with the March 13, 2019 public review draft of *Blueprint Denver (2019)*. The draft *Blueprint Denver* identifies the subject property as part of an Innovation/Flex place within the Special District Context and provides guidance from the future growth strategy for the city.

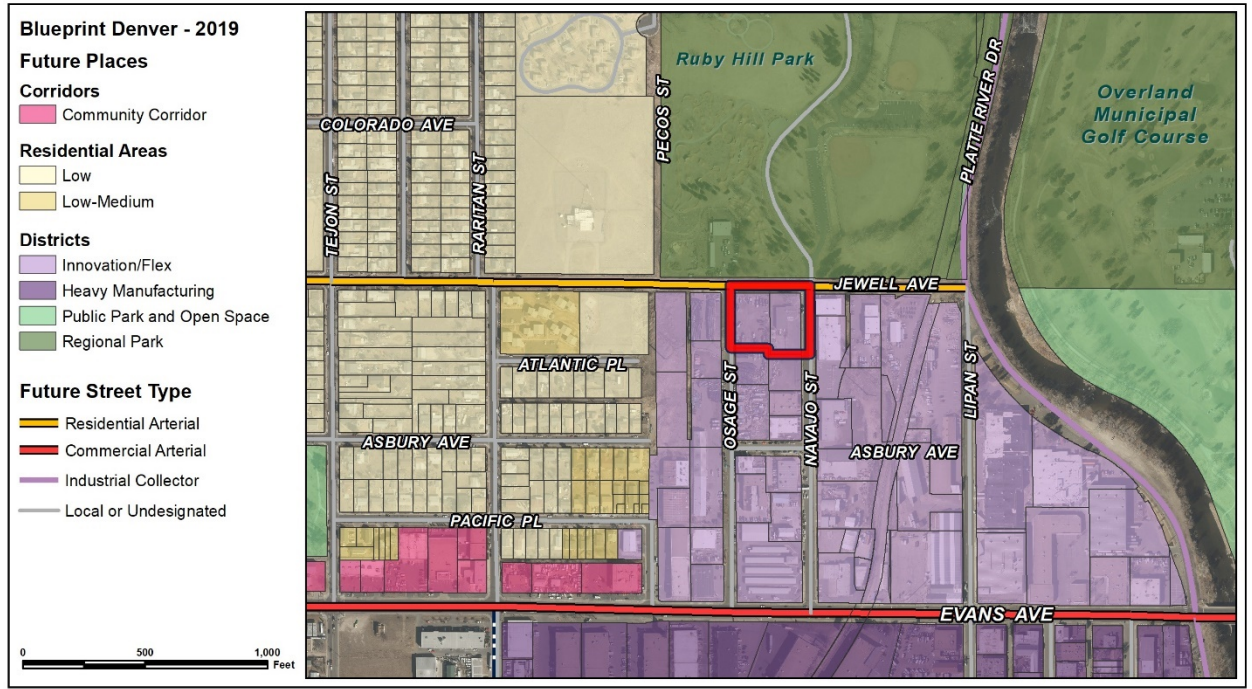
### Future Neighborhood Context



The subject property is within the Special District Context. These districts “are found throughout Denver and represent areas with specially designed purpose” (p. 283). “Block patterns, urban design and mobility connections vary based on specific use” (p. 137). Specifically, it’s in a Manufacturing District, which “play a major role in the city’s economy, serving as a primary place of employment and commerce in the Denver region” (p. 284). The subject site is identified as a high value, low threat area, meaning that this area “should maintain manufacturing uses” (p. 287). The proposed I-MX-5 district is within the Industrial Context and allows industrial uses, among others. Therefore, the request is consistent with the Special District Context plan direction.



### Future Places



*Blueprint Denver* describes Innovation/Flex districts in the Special District context as “an ideal location for businesses that need to mix research/design, manufacturing and logistics with an area that has more urban amenities, a greater mix of uses and strong transit connections” (p. 284). Additionally, “multi-unit residential is compatible” in Innovation/Flex areas, which are characterized by a “reduced intensity of use and the desire to create more vibrant urban places” (p. 284).

As clarified in the Land Use & Built Form: Economics Policy 1 Strategy A, “residential uses are appropriate in innovation/flex districts” (p. 91). Strategy D continues, “Within innovation/flex districts, enable housing and other uses to complement manufacturing. Promote urban, pedestrian-friendly building forms that are appropriate for vibrant, mixed-use districts” (p. 91).

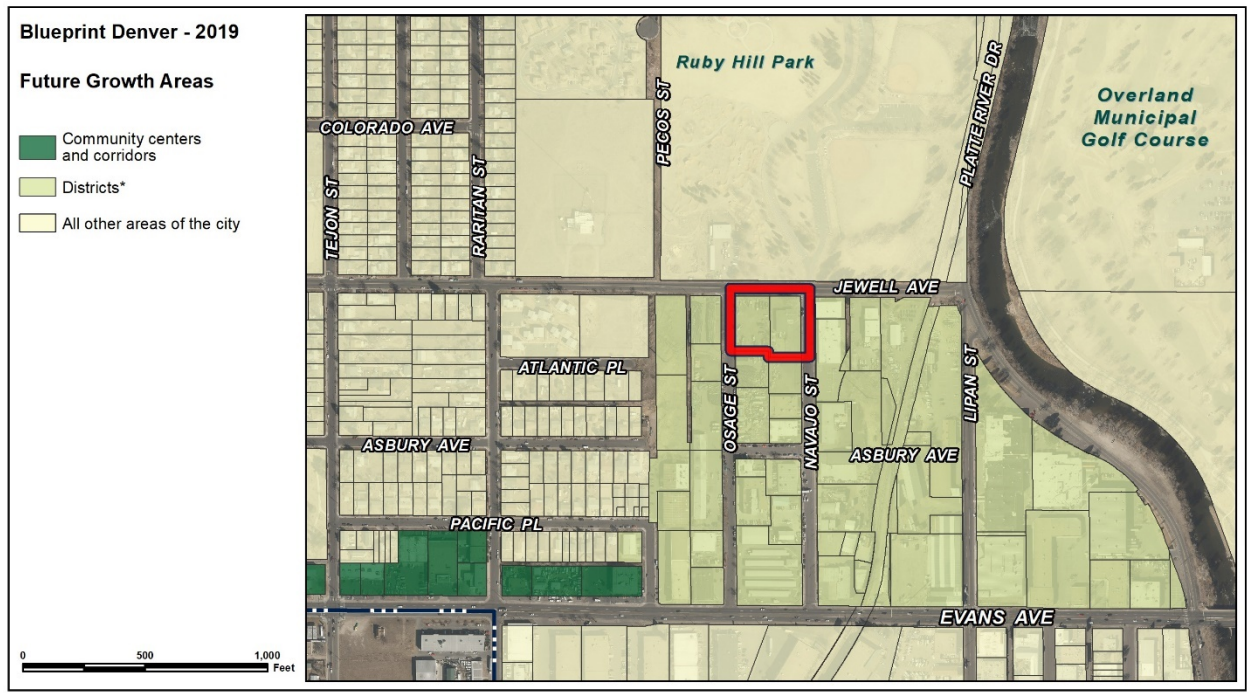
The proposed I-MX-5 zone district is intended to accommodate a variety of industrial, commercial, civic and residential uses in a pedestrian-oriented pattern with an active Street Level. In Innovation/Flex areas, “building scale varies greatly, and can be dependent upon the surrounding context and character” (p. 285). The surrounding buildings are currently lower than the five-story maximum height allowed under I-MX-5, but the current entitlement for these buildings is up to three stories in the I-MX-3 areas and potentially much higher in the areas zoned I-A south of the subject property, which are limited by floor area ratio rather than a maximum height. Additionally, the subject property is adjacent to Ruby Hill Park, which is classified as a Regional Park; increased height would allow more people to have direct access to this amenity, and *Blueprint Denver* includes access to parks as part of its evaluation of Access to

Opportunity (p. 35). Therefore I-MX-5 is appropriate for an Innovation/Flex district at this location.

### **Street Types**

*Blueprint Denver* classifies Jewell Avenue as a Residential Arterial. “Arterial streets are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). The land use and built form characteristics of Residential streets is described as “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modes setback. The depth of the setback varies by neighborhood context” (p. 160). Osage Street and Navajo Street are both classified as Local streets, which “are designed for the highest degree of property access” (p. 154) and “can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 160). The proposed I-MX-5 zone district, which is intended to be served primarily by collector streets (DZC Section 9.1.2.1.A.3), is consistent with these street type designations.

### **Growth Strategy**



The subject property is part of a Special District. Districts are anticipated to see around five percent of new housing growth and 15 percent of new employment growth by 2040 (p. 51). While the housing and job growth are not both intended for all District types, they are both relevant for Innovation/Flex districts. The proposed map amendment to I-MX-5 will focus mixed-use growth to an Innovation/Flex district, which is an intended location for this kind of growth. Therefore, this proposed rezoning is consistent with the growth strategy.



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

The proposed rezoning to I-MX-5 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 primarily through implementation of the city's adopted plans. Additionally, the proposed zone district allows increased density compared to the existing zone district, which has been linked to increased physical activity<sup>1</sup> and less obesity.<sup>2</sup> Furthermore, enabling more people to live and work within close proximity of parks and other outdoor recreation is listed as an important aspect of a built environment that promotes health.<sup>3</sup>

## **4. Justifying Circumstance**

The application identifies several 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: (a.) Changed or changing conditions in a particular area, or in the city generally."

In particular, the city has recently invested in improvements to Ruby Hill Park, including the construction of Levitt Pavilion, a ski/snowboard hill, and a bike park. Additionally, while the subject site is over a mile from the Evans Station lightrail stop, it is less than a quarter mile from the nearest bus stop that intersects with the station. This rezoning would recognize the changed character of the area as it transitions from industrial and vacant land to an innovation/flex, industrial mixed use area abutting a major park amenity and within walking distance to transit service. These are appropriate justifying circumstance for the proposed rezoning.

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

The requested I-MX-5 zone district is within the Industrial context, which is characterized by an irregular pattern of large blocks. Buildings are typically closer to the street and range from one to eight stories in height. (DZC, Section 9.1.1) The current zone district, I-MX-3, is also within the Industrial Context. This context description is consistent with the surrounding area, and therefore the proposed rezoning to I-MX-5 is consistent with the neighborhood context description.

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

<sup>2</sup> 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.

<sup>3</sup> *Health in the Development Review Process*, American Planning Association: [https://planning-org-uploaded-media.s3.amazonaws.com/legacy\\_resources/nationalcenters/health/toolsforhealth/pdf/devreviewguidelines.pdf](https://planning-org-uploaded-media.s3.amazonaws.com/legacy_resources/nationalcenters/health/toolsforhealth/pdf/devreviewguidelines.pdf)

The general purpose of the I-MX zone districts is to develop in a pedestrian-oriented pattern, with buildings built up to the street and an active Street Level. These districts are intended to provide a transition between mixed use areas and I-A or I-B Industrial Districts, and they accommodate a variety of industrial, commercial, civic and residential uses. (DZC, 9.1.2.1.A.1) Given the existing land use pattern, the current zoning, and the aspirational future character of this location, the I-MX purpose is appropriate for this particular location.

The I-MX-5 zone district specifically applies to industrially-dominated areas served primarily by collector streets with a maximum building height of five stories. (DZC, DZC, 9.1.2.1.A.2) Given the subject property's location on a Residential Arterial in an industrial mixed use area adjacent to a park, the I-MX-5 intent is appropriate for this particular location.

### **Attachments**

1. Application
2. Public and RNO comment letters