

**Quick Facts**

**Applicant**

Ireland Dean Designs

**Property Owner**

Alan Brass and Benjamin Oliver

**Address / Location**

7380 Black Forest Road  
(Southwest corner of Black Forest Road and Foxtrot Drive)

**TSN(s)**

5306000099

**Zoning and Overlays**

Current: Unincorporated El Paso County; RR-5 CAD-O (Residential Rural with Commercial Airport Overlay District)

Proposed: MX-N/AP-O (Mixed-Use Neighborhood Scale with Airport Overlay)

**Site Area**

1.96 acres

**Proposed Land Use**

Commercial or residential uses

**Applicable Code**

UDC

**Project Summary**

This project includes concurrent applications for annexation and establishment of zoning with a Land Use Statement for the associated 1.96 acres located at 7380 Black Forest Road. The proposed zoning will establish a MX-N/AP-O (Mixed-Use Neighborhood Scale with Airport Overlay) with the overall annexation to allow for future commercial or residential uses to be established on the property (see Attachment 2 - Project Statement Addition No. 1 and Attachment 2a – Project Statement Addition No. 2).

File Number	Application Type	Decision Type
ANEX-23-0016	Annexation	Legislative
ANEX-23-0054	Annexation	Legislative
ZONE-24-0001	Zone Establishment	Legislative

## Background

### Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Current Proposal	N/A
Subdivision	N/A	N/A
Master Plan	N/A	N/A
Prior Enforcement Action	N/A	N/A

### Applicable Code

The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project. The subject application(s) are being reviewed under the Unified Development Code. All subsequent references within this report that are made to “the Code” and related sections are references to the Unified Development Code.

## Surrounding Zoning and Land Use

### Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	Unincorporated El Paso County; RR-5 CAD-O (Residential Rural with Commercial Airport Overlay District)	Veterinary Hospital	N/A
West	Unincorporated El Paso County; RR-5 CAD-O (Residential Rural with Commercial Airport Overlay District)	Single-Family	N/A
South	Unincorporated El Paso County; RR-5 CAD-O (Residential Rural with Commercial Airport Overlay District)	Single-family	N/A
East	PDZ (Planned Development Zone)	Single-Family	Forest Meadows Subdivision

**Zoning Map:** Any areas that do not have a zoning designation below are in unincorporated El Paso County. The yellow dashed line also represents the current City boundary.



## Stakeholder Involvement

### Public Notice

Public Notice Occurrences <i>(Poster / Postcards)</i>	Initial Submittal and prior to Public Hearings, poster and postcards required
Postcard Mailing Radius	1,000 feet
Number of Postcards Mailed	142
Number of Comments Received	Two

### Public Engagement

Public comments in opposition to the zone change were received (see Attachment 4 - Public Comments). Public concerns were related to water well rights and septic use of adjacent properties, reduction of property values, if adjacent properties will be required to annex, and concerns the future use of subject property had not been clearly identified. The Applicant provided a written response to the received public comments during the initial review of the project (see Attachment 5- Public Comment Response).

## Timeline of Review

Initial Petition Submittal	October 24, 2023
City Council Petition Acceptance	November 28, 2023
Initial Zoning Map Amendment and Land Use Statement Submittal	March 8, 2024
City Council Annexation Checkpoint Work Session	June 24, 2024
Utilities Board	N/A
Item(s) Ready for Agenda	June 17, 2024

## Agency Review

### City Traffic Engineering

City Traffic Engineering indicated that depending on the type and size of future development of the site it will be determined at development plan if a traffic impact analysis is required. Traffic Engineering requested that a general note (#10) be added to the annexation plat that if Foxtrot Lane becomes a city road, the city has the right to remove the right in/out access along Black Forest Road and provide alternative access from Foxtrot Lane. Traffic Engineering has no outstanding concerns for development that would be allowed under the proposed zoning.

### School District

Academy School District 20 was sent a referral. No comments were provided. Should the site be developed as residential, school impact fees will be calculated at development plan or final plat.

### Parks

Currently, no residential uses are proposed, no PLDO fees are required. PLDO fees will be assessed if the site is developed with residential uses. The applicant(s) will be required to pay necessary CDI fees at time of building permit.

### SWENT

SWENT has reviewed and recommended approval of this annexation proposal. Future development plans will require final drainage reports to be reviewed and approved by SWENT prior to land disturbance.

### Colorado Springs Utilities

No outstanding comments, CSU recommends approval.

## Annexation

### Summary of Application

The associated annexation follows the voluntary annexation rights under C.R.S. (Colorado Revised Statute) and owners must petition the municipality to request annexation into the City (see Attachment 1 – Petition for Annexation No. 1 and Attachment 1a – Petitions for Annexation No. 2). The City's authority to annex land is established by Colorado Revised Statutes (CRS. 31-12-101) which sets requirements and procedures which municipalities must follow. The application consists of requesting to annex 1.96 acres (see Attachment 6 - Annexation Plat Addition No. 1; Attachment 6a – Annexation Plat Addition No. 2; and Attachment 7 - Legal Descriptions Addition No. 1 -2). The Brass-Oliver Addition No. 1 Annexation is for 30-foot right-of-way that was deeded over the City of Colorado Springs along Black Forest Road. The voluntary annexation of Brass-Oliver Addition No. 2, necessitated the annexation of Brass-Oliver No. 1, and provided the

necessary contiguity for annexation. The petition for this annexation was also accepted on November 28, 2023, by City Council.

The proposed annexation is in an enclave west of Black Forest Road, south of Cowpoke Road, and north of Center Ridge Drive. The city has seen an interest in annexing other areas of this enclave over recent years. There are two separate active annexation applications that are currently being considered by the City in this enclave in addition to this request for annexation.

The property has current access from Foxtrot Lane, a private road in the County, and Black Forest Road. Access to Black Forest Road is a right in/out. Should Foxtrot Lane become a City road in the future, City Traffic Engineering has indicated that access onto Black Forest Road will be reconsidered for this property. The general land use of the area is primarily residential with some commercial uses closer to East Woodmen Road. The current property owner anticipates selling the subject property upon annexation; thus, the proposed established zone of MX-N (Mixed-Use Neighborhood Scale) provides a compact mix of low intensity neighborhood-serving commercial and low scale residential. Staff believes future development under this zoning district will have appropriate compatibility when evaluated with the established surrounding land use pattern and the transition from single-family residential and multi-family residential to more commercial along E Woodmen Road and Black Forest Road.

### **Application Review Criteria (UDC Section 7.5.701)**

An application for an annexation shall be subject the following conditions for annexation:

1. *The area proposed to be annexed is a logical extension of the City's boundary;*

The proposed annexation is located within an enclave. PlanCOS provides the following definition of 'enclave' *"unincorporated areas entirely surrounded by property within the municipal boundaries of the City, as further defined in the Colorado Revised Statutes"*, and the City encourages voluntary annexation to remove enclaves.

2. *The development of the area proposed to be annexed will be beneficial to the City. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City;*

A Fiscal Impact Analysis shall be completed by the City of Colorado Springs Budget Office for annexations or amendments that meet the following criteria:

- Any change in size from nonresidential to residential development
- Minimum of 20 acres for all other changes
- Maximum of 400 acres before marginal fiscal analysis recommended

The proposal annexes a 1.96-acre property into the City, 0.14 acres consisting of Black Forest Road right-of-way. Therefore, this annexation does not meet the above criteria, and a full fiscal impact analysis is not required (see Attachment 9 - FIA Memo).

3. *There is a projected available water surplus at the time of request;*

At the time of this request, Colorado Springs Utilities (CSU) has reviewed the annexation, and no further comments are pending to support projected available water surplus.

4. *The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City;*

Any future costs for extensions for this proposal will be required to be at the expense of the developer.

5. *The annexation can be effected at the time the utilities are extended or at some time in the future;*

The proposed application will be required to extend services on this vacant property, any extension will be at the expense of the developer.

6. *The City shall require as a condition of annexation the transfer of title to all groundwater underlying the land proposed to be annexed. Should such groundwater be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse annexation or require payment commensurate with the value of such groundwater as a condition of annexation. The value of such groundwater shall be determined by the Utilities based on market conditions as presently exist;*

The transfer of water rights is required with annexation and has been included within the drafted Annexation Agreement (see Attachment 8 - Draft Annexation Agreement\_6.23.24).

7. *All rights of way or easements required by the Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to the Utilities. Utilities, at the time of utility system development, shall determine such rights of way and easements;*

The drafted Annexation Agreement establishes timelines of rights-of-way and easements. Future development plans and final plats will be required to indicate such locations and be accepted by CSU.

8. *If the proposed annexation to the City overlaps an existing service area of another utility, the applicant shall petition the PUC (Public Utilities Commission) or other governing authority to revise the service area such that the new service area will be contiguous to the new corporate boundary of the City.*

N/A

9. *After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area. In the event the City Council chooses to annex, it may require a contemporary annexation agreement specifying the installation and the time of installation of certain public and utility improvements, both on site and off site, that are required or not required under this Zoning Code. City Council may specify such other requirements, as it deems necessary. In the event the City Council chooses not to annex, utilities shall not be extended unless Council is assured that an agreement for annexation can be enforced, and that the remaining provisions of this section for annexation subsequent to extension of utilities have been met.*

The drafted Annexation Agreement specifies the timing of certain public and utility improvements.

### Summary of Application

The proposed zoning request will establish the MX-N/AP-O (Mixed-Use Neighborhood Scale with Airport Overlay) zone district to allow for commercial or residential uses (see Attachment 10 - Zone Change Exhibit A and Attachment 10a – Zone Change Exhibit B). It is required by City Code that any annexed property be accompanied by a zoning designation. The general land pattern for the immediate area consists of residential transitioning to more commercial uses along Black Forest Road and E Woodmen Road. Within this enclave there are two additional proposed annexation applications under consideration by the City. North of the subject property is Authentix Wolf Ranch Annexation which proposes a rezone to R-5 (Multi-Family High) to allow for a multi-family development, and south of the subject property is 7770 Black Forest Annexation which proposes a zone change to MX-M (Mixed-Use Medium Scale) for future commercial development. The proposed MX-N (Mixed-Use Neighborhood Scale) zone district for this application provides an opportunity for a mix of low intensity neighborhood serving commercial, office and low scale residential uses. MX-N zone districts are intended to maintain the scale of the adjacent neighborhood. This zone district provides a transition between R-1 6 (Single-Family – Medium), R-5 (Multi-Family High), PDZ (Planned Development Zone) and MX-M (Mixed-Use Medium Scale) zone districts and use types in the immediate area.

### Application Review Criteria (UDC Section 7.5.704)

An application for an amendment to the zoning map shall be subject the following criteria for approval:

1. *The proposed rezoning is consistent with the goals and policies of the Colorado Springs Comprehensive Plan, with other plans and policies adopted by the City Council; and with the purpose statement of the proposed zone district.*

The proposed application is consistent with the Colorado Springs Comprehensive Plan (PlanCOS), and the future planned uses are consistent with the MX-N (Mixed-Use Neighborhood Scale) zone district purpose statement.

2. *The rezoning will not be detrimental to the public interest, health, safety, convenience or general welfare.*

The proposed application will not be detrimental to the public interest, health, safety, convenience, or general welfare. A proposed use is subject to the review criteria and standards for a development plan in the associated zone district and the Airport Overlay. Zoning of the property to allow for commercial or residential use is compatible with the surrounding area with a variety of residential types and commercial uses located along Black Forest Road and E Woodmen Road.

3. *The location of the lands in the zoning map area being amended are appropriate for the purposes of the proposed zone district(s).*

The owners have not identified the future intentions of the property. Upon annexation, the property owners intend on selling the property. Future development of the property is unknown at this time. The proposed zone establishment of MX-N (Mixed-Use Neighborhood Scale) offers a mix of use types that are compatible with the established surrounding land use pattern.

4. *If the application proposes to rezone a small area of land, the application demonstrates that the size, scale, height density, and multimodal traffic impacts of the proposed rezoning are compatible with surrounding development or can be made compatible with surrounding development through approval conditions.*

If approved, future development plans will be required to be reviewed with the zoning district standards applicable to the development. Per UDC Section 7.5.514, a waiver to the land use plan requirement may be requested with the submittal of a Land Use Statement (see Attachment 3 - Land Use Statement Project Statement) demonstrating that the application complies with the criteria for a waiver. The request to waive the requirement for a Land Use Plan for this 1.82 acres in association with the zone map amendment meets the criteria outlined below in this report.

5. *If the application proposes to rezone a relatively small area of land, the application demonstrates that the change in zoning will not create significant dislocations of tenants or occupants of the property, or that any impacts are outweighed by other public benefits or progress toward other Colorado Springs Comprehensive Plan goals that would be achieved by approval of the application.*

The site is currently vacant and there is no anticipation of dislocation of tenants or occupants.

6. *If a Land Use Plan or amendment to a Land Use Plan accompanies the application, the Land Use Plan or amendment complies with the applicable criteria in Subsection 7.5.514C.3 (Land Use Plan Criteria).*

The applicant has requested a waiver of the Land Use Plan requirement in accordance with UDC Section 7.5.514, and has submitted a Land Use Statement demonstrating that the application complies with the criteria for a waiver.

7. *The application is consistent with any approved Concept Plans in the area for which the map is being amended or includes or is accompanied by a provision that the approved Concept Plans have been classified as implemented and do not have to be amended to be considered consistent with an amended zoning map.*

N/A

8. *If the application is for creation of an ADS-O district, the approval criteria applicable to the creation of the text of the ADS-O district in Section 7.2.607D.47.5.702 (Decision) shall also apply to consideration of the zoning map amendment required to create or amend the boundaries of the ADS-O district.*

N/A

9. *If rezoning to a PDZ district, the proposed PDZ district provides significant community amenities or other benefits, as determined by the Manager, that promote the achievement of Colorado Springs Comprehensive Plan goals and would not otherwise be required of the applicant under this UDC or other City or governmental regulations.*

N/A

10. *Complies with the additional standards of the base zone district where the property is located (see Article 7.2 (Zone Districts)) or in an overlay district that applies to the property (see Part 7.2.6 (Overlay Districts)).*

The proposed application will require compliance with the Airport Overlay. An Avigation Easement is required to be established at time of final plat. This current proposal and any future entitlements will require review and recommendations from the Airport Advisory Committee (AAC).

Staff finds that the criteria of UDC Section 7.5.704, which are applicable to a zoning establishment, have been met with this application.



## Land Use Statement

### Summary of Application

A Zone Map Amendment is accompanied by either a Land Use Plan or a Development Plan. A Land Use Plan is used to review the impact of the proposed uses on surrounding development early in the project planning process. A Development Plan evaluates the specific impacts of the proposed land use and site design. Per UDC Section 7.5.514, a waiver to the Land Use Plan requirement may be requested with the submittal of a Land Use Statement (see Attachment 3 - Land Use Statement Project Statement) demonstrating that the application complies with the criteria for a waiver. The request to waive the requirement for a Land Use Plan for this 1.82 acres, in association with the zone map amendment, meets the criteria outlined below.

### Land Use Plan Waiver/Statement [UDC Section 7.5.514]

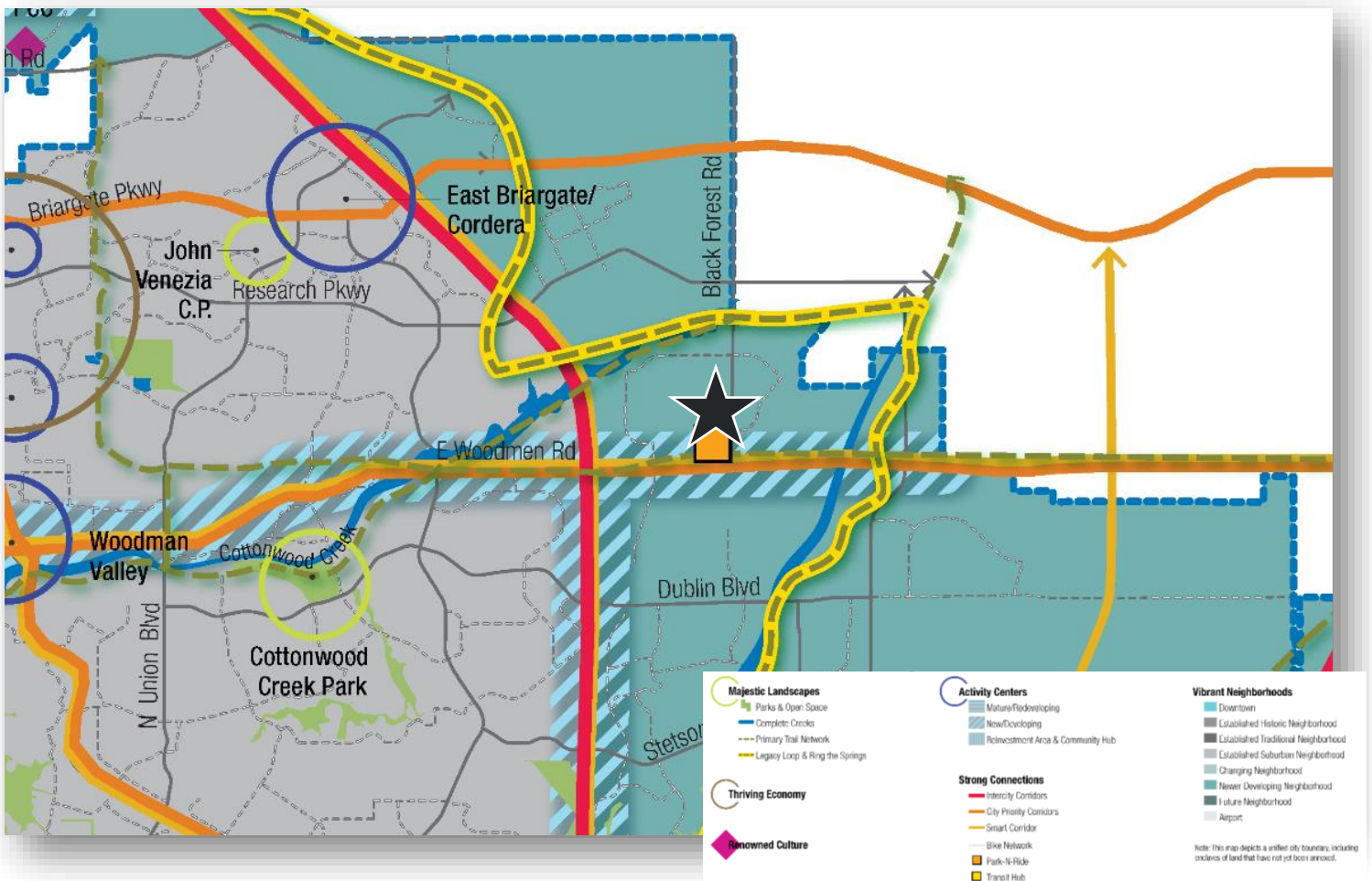
Per UDC Section 7.5.704.A, *the purpose of a zoning map amendment is to establish standards and provide a mechanism for the City to review and decide on an application to rezone property within the City's jurisdiction, where the City has determined that rezoning of those areas is appropriate.* An application to establish or change the boundaries of any zone district is required to include a Land Use Plan unless waived or a development plan is submitted in conjunction with the zone map amendment request. The applicant requested a Land Use Plan waiver by submitting a Land Use Statement demonstrating the application complies with at least one of the criteria for a waiver outlined in UDC Section 7.5.514.B.3.a.(1)-(6) and below:

- 1) *The land area under review is less than ten (10) acres and is planned to be developed in a single phase;*
- 2) *The land is contained in and subject to a previously approved Master or Concept Plan;*
- 3) *The land is included in a Development Plan application;*
- 4) *The land area is part of an established surrounding development pattern;*
- 5) *The proposed zoning pattern for the land aligns with adjacent existing zoning or development; and/or*
- 6) *Major infrastructure or urban services for the land including but not limited to access points and roadway systems, have already been established and are not proposed to be changed.*

Staff finds that the request to waive the requirements for a Land Use Plan has been met in accordance with UDC Section 7.5.514.B.3. As stated above a proposal shall meet one or more of the statements; Staff finds that the current proposal complies with several of these criteria statements.

# Compliance with PlanCOS

## PlanCOS Vision



The overall intent of annexation is to benefit the City and occur in a manner that ensures a logical extension of the City's boundary. Chapter 8 of PlanCOS provides broad policy direction for annexation; annexations will occur in accordance with State law; support of economic development objectives of the City and will be a fiscal benefit; development will be consistent with long range plans; and avoid creating enclaves while proactively work at incorporating existing enclaves into the City. Staff has evaluated the proposed annexation and determined its eligibility in accordance with State law to be acceptable. The annexation is a logical extension, continuing to remove enclaves within the City Boundaries.

## Statement of Compliance

### **ANEX-23-0054**

After evaluation of the Brass-Oliver Addition No. 1 Annexation the application meets the applicable Colorado Revised Statutes provisions for annexation and is eligible for Considerations for Annexation in City Code, with the following technical modification:

1. All remaining City Land Surveyor comments related to labeling shall be resolved prior to City Council hearing.

### **ANEX-23-0016**

After evaluation of the Brass-Oliver Addition No. 2 Annexation the application meets the applicable Colorado Revised Statutes provisions for annexation and is eligible for Considerations for Annexation in City Code.

### **ZONE-24-0001**

After evaluation of the proposed Zone Establishment of MX-N/AP-O (Mixed-Use Neighborhood Scale with Airport Overlay) the application meets the City Code review criteria.