

NEAGLE-DUTCHER FAMILY ADDITION

Planning Commission July 10, 2024

Staff Report by Case Planner: Tamara Baxter



Quick Facts

Applicant

Land Development
Consultants, Inc.

Property Owner

Laurie Lee Neagle

Address / Location

4105 Date Street

TSN(s)

6326209009

Zoning and Overlays

Current: Unincorporated El
Paso County; RM-30
(Residential Multi-Dwelling)
Proposed: R-5 (Multi-Family
High)

Site Area

1.01

Proposed Land Use

Residential (Single Family,
Detached Dwelling)

Applicable Code

UDC

Project Summary

This project includes concurrent applications for annexation, establishment of zoning, and a land use statement for the associated 1.01-acres located at the northeast intersection of Date Street and Lotus Street. The proposed zoning will establish a R-5 (Multi-Family High) zone district with the overall annexation to allow for a single-family dwelling (detached) to be established on this property (see Attachment 1 - Project Statement).

File Number	Application Type	Decision Type
ANEX-24-0008	Annexation	Legislative
ZONE-24-0005	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	Park Vista Addition Subdivision	July 15, 1955 (Plat Book W at Page 69)
Master Plan	N/A	N/A
Prior Enforcement Action	N/A	N/A

Applicable Code

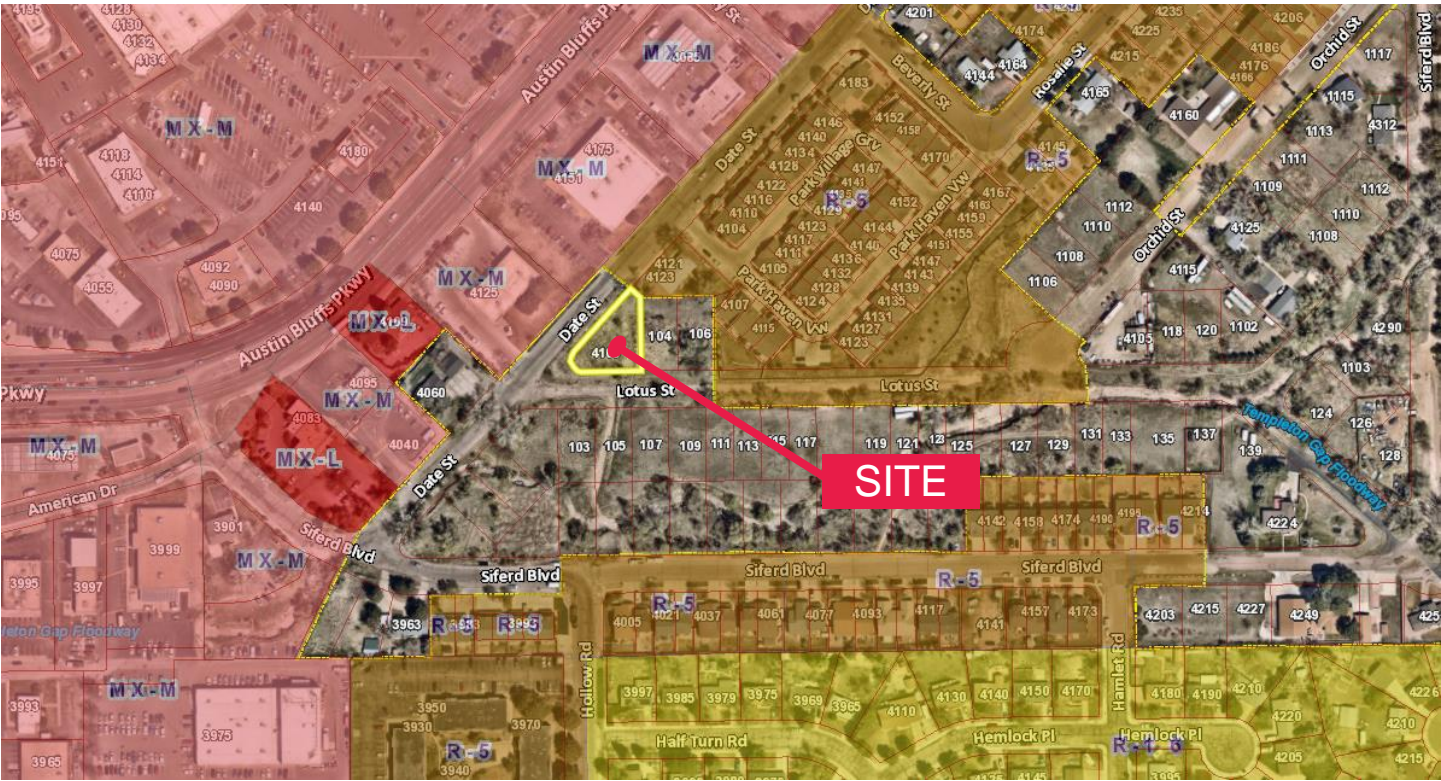
The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project. The subject application(s) are being reviewed under the Unified Development Code. All subsequent references within this report that are made to “the Code” and related sections are references to 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	R-5 (Multi-Family High)	Two Family Attached (Duplex)	Park Haven Village Subdivision
West	MX-M (Mixed-Use Medium Scale)	Commercial	N/A
South	Unincorporated El Paso County; RM-30 (Residential Multi-Dwelling)	Vacant	N/A
East	Unincorporated El Paso County; RM-30 (Residential Multi-Dwelling)	Vacant	N/A

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



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	Initial Submittal and prior to Public Hearings, poster and postcards required
Postcard Mailing Radius	1,000 feet
Number of Postcards Mailed	204
Number of Comments Received	14

Public Engagement

Public comments in opposition to the zone change were received (see Attachment 3 - Public Comments). Public concerns were related to flooding, traffic and safety, and obstruction of views. The Applicant provided a written response to the received public comments during the initial review of the project (see Attachment 4 - Public Comment Response). It is also important to note that the overall Park Vista enclave area is currently part of a City Public Works project to take corrective action on stormwater issue that persist in this area.

Timeline of Review

Initial Petition Submittal	August 31, 2023
City Council Petition Acceptance	November 20, 2023
Initial Zoning Map Amendment and Land Use Statement Submittal	February 20, 2024
City Council Annexation Checkpoint Work Session	June 24, 2024
Utilities Board	NA
Item(s) Ready for Agenda	June 17, 2024

Agency Review

Traffic Engineering

A Traffic Impact Study was not required to be prepared. Traffic Engineering noted that the developer is responsible to install new public improvements to match existing improvements along Date Street and Lotus Street to include pavement mat, curb and gutter, and sidewalk. The Applicant is working with City Engineering to resolve the request to install public improvements without upstream development improvements being completed which could affect the public improvements to be installed.

School District

School District 11 was sent a referral. No comments were provided. School impact fees will be required at building permit.

Parks

PLDO fees will be assessed and required for this residential development at the time of building permit.

SWENT

SWENT has reviewed and recommended approval of this annexation proposal. Future development will require final drainage reports to be reviewed and approved by SWENT at the time of building permit for single-family residential development.

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). 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 1.01 acres (see Attachment 6 - Annexation Plat and Attachment 7 - Legal Description).

The proposed annexation is located in the Park Vista enclave northeast of the intersection of Austin Bluffs Parkway and North Academy Boulevard; this includes portions of Date Street and Lotus Street rights-of-ways which extends to city boundaries. The annexation of this property is not creating any additional enclave but is reducing the existing enclave in

this area. The annexation of Lotus Drive right-of-way does not create an additional enclave of the two parcels to the east of the subject site. The city has seen a larger interest in annexing areas of this 'complex enclave' over recent years; staff sees these smaller annexations as an overall cleaning up of the larger Park Vista enclave.

The property will be accessed from Date Street. The general use of the area is residential consisting of single-family detached dwellings and single-family attached dwellings multi-family dwellings to the east and south; there is commercial along the north and west of this enclave. The owner has identified future intentions for a single family detached residential dwelling. Staff believes the proposed development shows appropriate compatibility when evaluated with the established surrounding land use pattern.

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 a 'complex enclave' per the City of Colorado Springs Annexation Plan (2006). 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 is 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 1.01-acre property into the City. Therefore, this annexation does not meet the above criteria, and a full fiscal impact analysis is not required.

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;*

City water and sanitary sewer lines are located within Date Street's right-of-way. Any future costs for extensions for this particular 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;*

Electric and gas mains are located within Date Street's right-of-way. The proposed application will be required to extend services to 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_6.4.24). The drafted annexation agreement has not been executed by the landowners prior to City Planning Commission.

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 plans 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.

Staff finds that the above conditions for annexation are met for the Neagle-Dutcher Family Addition.

Zone Establishment

Summary of Application

The proposed zoning request will establish the R-5 (Multi-Family High) zone district for 0.23 acres to accommodate the proposed single-family detached residential dwelling (see Attachment 9a – Zone Change Exhibit A and Attachment 9b – 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 single-family detached dwelling and single-family attached residential dwellings, as well as commercial along Austin Bluffs Parkway to the west of the subject property.

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 R-5 (Multi-Family High) 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 in the associated zone district. Zoning of the property to allow for residential use is compatible with the surrounding area with a variety of residential types.

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 owner has identified future intentions for a single-family detached residential dwelling. Staff has found that the proposed development shows appropriate compatibility when evaluated with the established surrounding land use pattern and zoning.

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 1.01-acre annexation area 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 (see Attachment 3 - Land Use Statement Project 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)).*

There is not an applicable overlay district that applies to the subject property. Additional standards of the base zone district will be adhered to as applicable.

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

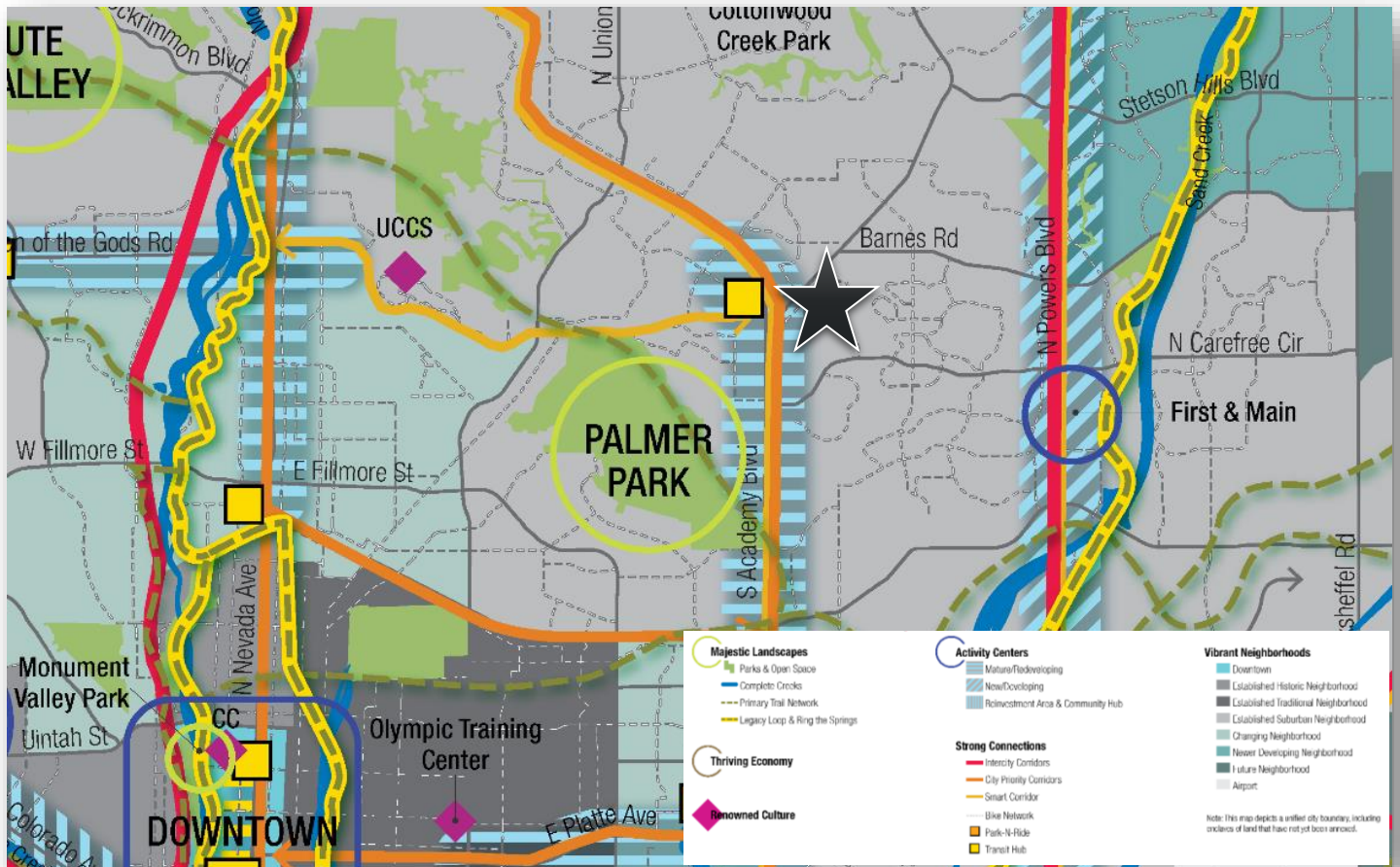
A Zone Map Amendment is accompanied by either a Land Use Plan or a Development Plan. A Land Use Plan is used to review the impact of the proposed uses on surrounding development early in the project planning process. A development plan evaluates the specific impacts of the proposed land use and site 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 1.01 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 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.



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; removing a further portion of the Park Vista enclave.

Statement of Compliance

ANEX-24-0008

After evaluation of the Neagle-Dutcher Family Addition Annexation the application meets the applicable Colorado Revised Statutes and is eligible for consideration of annexation.

ZONE-24-0005

After evaluation of the proposed Zone Establishment of R-5 (Multi-Family High) the application meets the City Code review criteria.