



### Quick Facts

#### Applicant

NES

#### Property Owner

Southern Colorado Rail Park LLC  
and Edward C. Levy, Co

#### Address / Location

South and west of the Highway  
25 and South Santa Fe  
intersection, adjacent to Fort  
Carson

#### Zoning and Overlays

Current: Unincorporated El Paso  
County

Proposed: PDZ (Planned  
Development Zone) District

#### Site Area

3,107.11

#### Proposed Land Use

Rail-road spur to serve Fort  
Carson and associated railroad-  
oriented heavy and light industrial  
and commercial uses.

#### Applicable Code

UDC

### Project Summary

An annexation, establishment of a PDZ (Planned Development Zone; Non-Residential; maximum square footage of 7,000,000 square feet; maximum building height of 120 feet) District, and a Land Use Plan for a new railroad spur and associated railroad-oriented heavy and light industry and commercial uses consisting of 3,107.11 acres located south and west of the Highway 25 and South Santa Fe intersection, adjacent to Fort Carson (see 'Project Statement' attachment).

File Number	Application Type	Decision Type
ANEX-24-0013	Annexation	Legislative
PDZZ-24-0005	Zone Establishment	Legislative
PDZL-24-0006	Land Use Plan	Legislative

## Background

### Prior Land-Use History and Applicable Actions

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

### Site History

The proposed annexation is located south and west of the Highway 25 and South Santa Fe intersection, adjacent to Fort Carson. The proposed annexation area is currently within El Paso County and is mostly vacant, with an existing mining operation on the northeast portion of the property.

As the City has expanded over the last several decades, there have been numerous instances of larger areas of annexation. During the 1980's the City experienced a very active period of annexation including areas of North Gate, Briargate and Banning Lewis Ranch. In the early 2000's Flying Horse and Woodmen Heights were annexed. Much of these areas have now been developed; there are existing areas of greenfield that still exist, particularly in Banning Lewis Ranch. (see 'City Annexations by Decade' map)

El Paso County's master plan – "Your El Paso County Master Plan" – identifies the subject area as an area of 'Potential Annexation' on the Key Areas Map. This map identifies areas of the County that are defined by "unique localized characteristics having influence on future land use and development." The Master Plan discusses that significant portions of the County's expected development population growth will locate in the areas adjacent to incorporated municipalities. It further states that, as the largest municipality, the City of Colorado Springs will likely annex parts of unincorporated County to plan for and accommodate new development. This Key Areas Map also outlines portions of the County that are anticipated to be annexed and developed. The subject site is classified as 'New Development' in the Areas of Change analysis of the Your El Paso Master Plan. The plan states these areas are expected to be significantly transformed as projected new development takes place on lands undeveloped or agricultural areas. It is further anticipated that this area of change will see development as an Employment Center.

In combination with the above approach from Your El Paso Master Plan, in 2021 the City of Colorado Springs and El Paso County entered into an Intergovernmental Agreement (IGA) for review of development and evaluation of possible annexations. The IGA memorialized the shared vision that it is best practice for logical extensions of urban level developments to be within the City. The IGA also established an Area of Planning Interest Map (running north to south about 3+ miles east of existing City limits), which establishes a collaborative protocol for the County to notify the City of new development with that area. The area of interest exceeds the 3-mile buffer in several locations.

State Statute allows for a property to still be eligible for annexation if the 3-mile buffer is exceeded if it is located within an Enterprise Zone as identified by El Paso County (see 'Enterprise Zone Map' attachment), as this proposed annexation is located.

Applicable Code

The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project, and as such, the applicant is permitted to elect which Code they prefer their application(s) be reviewed under. The subject application(s) were chosen to be reviewed under the Unified Development Code per the applicant’s instructions. 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	Vacant, Fort Carson - Commercial	N/A
West	Unincorporated El Paso	Butts Airfield	N/A
South	Unincorporated El Paso	Vacant, Fort Carson	N/A
East	Unincorporated El Paso	Ray Nixon Power Plant	N/A

Stakeholder Involvement

Public Notice

Public Notice Occurrences <i>(Poster / Postcards)</i>	Initial Submittal, Planning Commission, City Council
Postcard Mailing Radius	1,000 feet
Number of Postcards Mailed	10
Number of Comments Received	0

Timeline of Review

Petition Acceptance	November 26, 2024
Initial Submittal Date	November 19, 2024
Number of Review Cycles	3

## Agency Review

### Traffic Impact Study

All proposed public roads improvements including future right of way and traffic control devices will be determined when reviewing the forthcoming master traffic impact study.

The applicant will need to coordinate traffic review and requirements with CDOT.

### Fire Department

CSFD will require a minimum of five acres be provided to the City for a fire station at a location and time of their choosing, to facilitate the most expedient and reasonable response for this property.

### Police Department

The Colorado Springs Police Department will continue to evaluate information from the application plan through to development plans. As our community continues to grow in both land acquisition and population, the Colorado Springs Police Department remains committed to public safety. Recurring attention to public safety staffing needs, sworn and civilian, must continue to be a citywide priority to maintain industry best practices, accurately estimate increased department staffing requirements, and achieve realistic response times to service requests in the proposed annexation area. The Police Department will be available at the meeting for questions.

### CDOT

CDOT has provided comments, and the current Traffic Impact Study is suitable, however, prior to Phase 3, a TIS considering phases 3 and 4, including evaluation of interchange construction and mitigations at Exit 128 will be required.

### SWENT

SWENT has no outstanding comments. The applicant/owner will be responsible for any channel improvements identified with future drainage reports that are required to be reviewed and approved prior to land disturbance.

### Colorado Springs Utilities

CSU has no remaining outstanding comments. CSU will be at the public hearing with a presentation covering this proposal.

## 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. 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. A property is eligible for annexation if the contiguity requirement is met; not less than one-sixth the perimeter of the proposed area for annexation is contiguous with the existing boundary of the annexing municipality, and that area proposed for annexation has more than 50% ownership within the City 3-Mile Buffer for annexation, an exemption for the 3-mile rule is that if the proposal is located with an Enterprise Zone it may exceed the 3-mile buffer. Contiguity is not

affected by the existence of public lands, whether owned by the state, the United States, or an agency thereof. The proposed annexation is able to utilize the existence of Fort Carson boundary to gain contiguity at the northwest portion of the United States owned land in order to establish the contiguity with the City of Colorado Springs (see 'Contiguous Boundary Exhibit' attachment).

The proposed annexation is 3,107.11 acres and located south and west of the Highway 25 and South Santa Fe intersection adjacent to Fort Carson (see 'Annexation Plat and Legal Description' attachments). The properties gain access by Charter Oak Ranch Road (which leads to a limited access to Fort Carson) to the north and, in the future, extensions of public roads to I-25 and a railroad spur to the southeast. The general use of the area is Fort Carson to the north, west, and south, vacant and industrial to the east, and commercial to the northeast.

The owner has identified the potential for future a future railyard spur to serve heavy and light industrial, commercial development and a possible extension to Fort Carson. Staff finds the proposed development shows appropriate compatibility when evaluated with the established surrounding land use pattern; the supporting land use plan also captures development layout and design and clearly identifies the intended land use configuration.

## Application Review Criteria

### UDC Section 7.5.701

- 1. The area proposed to be annexed is a logical extension of the City's boundary;*
- 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;*
- 3. There is a projected available water surplus at the time of request;*
- 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;*
- 5. The annexation can be effected at the time the utilities are extended or at some time in the future;*
- 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;*
- 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;*
- 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.*
- 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.*

There has been significant analysis and consideration by the City and CSU whether or not City and CSU services can be efficiently and effectively provided to the future uses within the Southern Colorado Rail Park Addition No. 1 Annexation – not only the immediate installation of infrastructure, but also ongoing future maintenance and requirements. Should the annexation be approved by City Council, staff expects that the Annexation Agreement will address infrastructure needs. There has been significant financial analysis prepared by CSU on the cost sharing of initial installation of CSU infrastructure, minimizing risk of “stranded assets and ongoing maintenance costs.”

The question that an objective answer is not easily answered is whether or not this annexation is a “logical extension of City boundary”. This is a City Code consideration, not a Colorado Revised Statute mandate. City Code does not define or help reach a conclusive answer to what constitutes a “logical extension”. An assumption can be made is that if an annexation is clearly allowed in State Statute as a property located in an Enterprise Zone, as this property is, that the annexation could be considered logical. Other factors considered in recent annexation discussions include:

- Is the annexation necessary for projected growth of the City?
- Is there a unique and important aspect of this annexation for the City that is not available in other locations?
- Is there undeveloped land in the City that can provide this land use segment?
- What if the land is not annexed? Will development occur outside the City boundary anyway?
- Can the City effectively and efficiently provide on-going services such as police, fire, road maintenance, etc.?

A fiscal impact analysis is being undertaken concurrently with this annexation and results will be available prior to City Council hearings. Should the Planning Commission support the Annexation, and should the City Council ultimately wish to approve the Annexation, staff believes that the Annexation Agreement will adequately address many of these topics. It should be noted that the area between the existing City limits and the Southern Colorado Rail Park Addition No. 1 Annexation is located within Fort Carson. It is unlikely that this area will be annexed into the City of Colorado Springs.

#### City Annexation Plan (2006)

The current City Annexation Plan was last updated in 2006 and is currently being updated through the AnnexCOS project. This 2006 plan does not contemplate the subject site for a potential annexation into the City of Colorado Springs. The cornerstone of the annexation evaluation through this plan points to the comprehensive plan, PlanCOS, that directs a focus on diversification of economic base and the City’s ability to accommodate projected population increases leading to positive outcomes for annexation into the City. AnnexCOS is anticipated to recommend a strategic approach to logical annexations that supports and encourages significant areas of newly planned urban density development to be included within City limits, in order to promote the long-term fiscal and resource sustainability of the City and region.

#### Fiscal Impact Analysis

A Fiscal Impact Analysis (FIA) is required for all annexations. Due to the magnitude of the proposed annexation the City Economic Development Department worked with the City Budget Office and has consulted with an outside agency, Tischler Bise, to conduct a Fiscal Impact Analysis.

#### Southeastern Colorado Water Conservancy District (SECWCD)

This property has completed its required inclusion application into the Southeastern Colorado Water Conservancy District through the Bureau of Reclamation. The Inclusion process will be completed with the Bureau of Reclamation with a final Letter of Assent pending.

After evaluation, staff recognizes that the proposed annexation meets the eligibility requirements set forth in Colorado Revised Statutes; determination of compliance with Conditions of Annexation as set in City Code is at the discretion of City Council.



### Summary of Application

The proposed zoning request is to establish a PDZ (Planned Development Zone; Non-Residential; maximum square footage of 7,000,000 square feet; maximum building height of 120 feet) District (see 'Exhibits A&B' attachment). It is required by City Code that any annexed property be accompanied by a zoning designation. The petitioner has chosen this zoning designation as there is currently an existing mining operation that is currently only allowed as a Conditional Use in UDC, and with the future anticipated heavy and light industry, commercial, ballistic, military, or aerospace related used, this designation would be the only zoning designation to permit all future land uses anticipated.

Per Section 7.2.702 of the UDC, a PDZ District is only permitted where the proposed design could not be developed using conventional zone districts or UDC standards. The proposed Land Use Plan provides a unique opportunity for large-scale rail-based industrial uses that would not be appropriate elsewhere in the City.

### 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.*
- 2. The rezoning will not be detrimental to the public interest, health, safety, convenience or general welfare.*  
development is compatible to the existing residential within the vicinity.
- 3. The location of the lands in the zoning map area being amended are appropriate for the purposes of the proposed zone district(s).*
- 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.*
- 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.*
- 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).*
- 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.*
- 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.4 (Decision) shall also apply to consideration of the zoning map amendment required to create or amend the boundaries of the ADS-O district.*
- 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.*

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)).*

Staff finds that the criteria of UDC Section 7.5.704, which are applicable to a zoning establishment, have been met with this application. As note 9 above requires a PDZ District to provide significant community amenities or other benefits as determined by the Manager, the applicant has proposed and the Manager concurs that 1) significant economic benefits to the City of Colorado Springs with rail-based heavy industrial not found elsewhere in the City, and 2) they have committed to prepare development and design guidelines to provide a high-quality, cohesive, and unified Industrial Park. The Manager has also determined that a rail spur may provide future opportunities to serve Fort Carson which would, if completed, benefit the City of Colorado Springs and the entire region.

## Land Use Plan

### Summary of Application

Per Section 7.5.302.A of the Code, A Land Use Plan is a plan required in some circumstances to show the proposed layouts of land uses, development intensities and densities, primary access points, green space, public open space systems and areas that should be preserved or protected, potential needs for public land dedications, and other aspects of proposed development at a conceptual level. The purpose of a Land Use Plan is to provide the City the information needed to evaluate how a proposed development may impact surrounding development without requiring the applicant to provide the levels of detail required on a Development Plan. Furthermore, Section 7.2.703 requires a Land Use Plan to accompany a request for a PDZ District. The Land Use Plan shall define further the specific uses allowed within the district and establish dimensional standards for the future development. Future Development Plans will be required and would have to be in compliance with the Land Use Plan. (see 'Land Use Plan' attachment).

### Application Review Criteria

#### UDC Section 7.5.514

Land Use Plan Criteria: If the Land Use Plan is submitted in connection with an application to establish a zone district or to change zone district boundaries shall be reviewed based on the following criteria:

1. *Consistency with the Colorado Springs Comprehensive Plan and other plans and policies adopted by City Council;*
2. *Consistency with development standards the zone district in which the property is located, or would be located after a requested zone district change;*
3. *Compatibility with the land uses and development intensities surrounding the property;*
4. *Impacts of the permitted or requested uses, appropriate to the type of development, the neighborhood, and the community;*
5. *Adequacy of proposed ingress/egress points and traffic circulation, both on and off the site;*
6. *Capacity of the existing streets, utilities, parks, schools, and other public facilities to serve the proposed development;*
7. *Promotion of transitions in height, intensity, or character between proposed non-residential or mixed-use development and nearby low-density residential zone districts.*

Staff finds that the above criteria are met for the Land Use Plan.



## Compliance with PlanCOS

When the City's Comprehensive Plan (PlanCOS) was drafted in the 2017 and 2018 timeframe, and then adopted in early 2019, it did not directly contemplate an annexation scenario comparable to this one. However, PlanCOS does recommend an update of the City's Annexation Plan to accommodate more strategic annexations along the periphery of the City "that support economic growth or expansion of the regional roadway network." PlanCOS also recommends that this Annexation Plan update and evaluate annexation policies "to be consistent with the vision, goals and policies of this plan and in coordination with the Colorado Springs Utilities, El Paso County, and other municipalities". In this respect it is noteworthy that the El Paso County Master Plan (Your El Paso Master Plan) identifies the Southern Colorado Rail Park Annexation area as having the potential for annexation, and as an area of change for an employment center.

PlanCOS is oriented around six major themes, Vibrant Neighborhoods, Unique Places, Thriving Economy, Strong Connections, Renowned Culture, Majestic Landscapes. In the context of this proposed development the Comprehensive Planning Division comments on these applications have focused on the proposed development plans for the Southern Colorado Rail Park Annexation project. The expectation is that this project address and satisfy certain PlanCOS goals and objectives based on a "self-contained" approach. From a development planning perspective, staff believe the applicant's development approach and its refinements have been responsive to these considerations.

### Unique Places

The future area create a potential for the future creation of unique places consistent with Chapter 3 Typology 3: Entertainment and Commercial Centers and Typology 4: Regional Employment and Activity Centers

### Thriving Economy

The PlanCOS Vision for a Thriving Economy is to foster an environment of inclusivity and economic diversity by attracting an innovative and adaptive workforce, advancing existing and targeted industry clusters, investing in quality of life, supporting our military, and expanding our sports ecosystem as Olympic City USA. The proposed area has a potential to be consistent with Chapter 4 Typology 5: Industry Icons and Typology 6: Critical Support

### Strong Connections

Several of the major streets have the potential to incorporate key recommendations of Chapter 5 Typology 4: Future Corridors and Typology 5: Special Focus Corridors. The future of Powers Boulevard could be adaptive to this development. It is also to be noted that with the accommodation of railroad serving the development that each train car will remove approximately 4 large trucks from Highway 25, and with each train to accommodate up to 100 cars, this can have a significant impact on traffic impacts on Highway 25 north and south through the City of Colorado Springs.

### Renowned Culture

The future area has the potential to satisfy many of the recommended attributes of Chapter 6 Typology 1: Defining Institutions, including strengthening partnerships with community organizations, expand access to resources and range of activities, and attract investment from outside the community.

## Statement of Compliance

### ANEX-24-0013

After evaluation staff recognizes that the proposed annexation meets the eligibility requirements set forth in Colorado Revised Statutes; however, determination of compliance with Conditions of Annexation as set in City Code is at the discretion of City Council.

### PDZZ-24-0005

After evaluation of the proposed Zone Establishment of a PDZ (Planned Development Zone; Non-Residential; maximum square footage of 7,000,000 square feet; maximum building height of 120 feet) District, the application meets the review criteria.

**PDZI-24-0006**

After evaluation of the Southern Colorado Rail Park Land Use Plan the application meets the review criteria.