



Legislation Details (With Text)

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Type: Planning Case **Status:** Mayor's Office

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On agenda: 11/14/2017 **Final action:** 11/14/2017

Title: A resolution adopting findings of fact and conclusions of law based thereon and determining the eligibility for annexation of property known as the 2864 South Circle Annexation

(Legislative)

Related Files: CPC A 15-0002, CPC ZC 16-00118, and CPC CP 16-00119

Presenter:
Peter Wysocki, Director Planning and Community Development
Lonna Thelen, Principal Planner, Planning and Community Development

Sponsors:

Indexes: Annexation

Code sections:

Attachments: 1. RES-FindingsOfFact-2864 S Circle, 2. Exhibit A - Legal Description, 3. Clerks Affidavit - 2864 S Circle, 4. Planner Affidavit - 2864 S Circle, 5. Suveryor's Affidavit - 2864 S Circle, 6. Signed Resolution 123-17

Date	Ver.	Action By	Action	Result
11/14/2017	1	City Council	adopted	Pass

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Summary:

Applicant: Classic Consulting Engineers & Surveyors
Owner: TOMA Alliance Group, LLC
Location: 2675 and 2679 Janitell Road and 2864 and 2868 South Circle Drive.

This project includes concurrent applications for an annexation, establishment of the PBC (Planned Business Center) zone district and concept plan for the site located at 2675 and 2679 Janitell Road and 2864 and 2868 South Circle Drive. The proposed annexation consists of three separate parcels totaling approximately 5.7 acres in size. The concept plan depicts an existing 12-story office building

totaling 146,700 square feet and an area of future commercial development.

Previous Council Action:

On July 28, 2015, City Council accepted the petition for annexation of 2864 South Circle Drive. On September 26, 2017, City Council adopted a resolution finding a petition for annexation of the subject properties to be in substantial compliance and setting a hearing date of November 14, 2017 to consider the annexation of the subject properties.

Background:

This project is an application to request annexation, zone establishment and a concept plan to illustrate existing development and show the location of future development. The site is located at the northeast corner of Circle Drive and Janitell Road within an existing El Paso County Enclave. The applicant would like to bring the existing 12-story office building and associated parking into the City of Colorado Springs and have the ability to develop the south portion of the site adjacent to Circle Drive in the future within the City of Colorado Springs. The concept plan provided for the project illustrates the layout of the existing office building, associated parking and future development parcel.

The City Comprehensive Plan strategies advocate for existing enclaves to be annexed into the City of Colorado Springs. This annexation will be in line with the City Comprehensive Plan as it annexes a portion of an existing enclave. Enclaves are properties that still remain under the jurisdiction of El Paso County even though they are surrounded by properties within the City of Colorado Springs. There are currently 38 enclaves (EXHIBIT 1) in Colorado Springs, these enclaves cause issues with the provision of police and fire emergency services, the provision of utility services, and infrastructure upgrades. Unless a property is in the City limits, the infrastructure is not required to be built to City standards and when subsequently annexed must be upgraded. The property at 2872 South Circle Drive, near the corner of Janitell Road and Circle Drive, is not included in this annexation, and is not part of this project. Staff has asked the applicant to engage in conversation to work with the property owner to be a part of this annexation. The property owner has refused to be a part of this annexation and at this time, the City has not forced annexation for the property. The City would encourage future annexation for this site when the property owner is ready to be a part of the City of Colorado Springs.

The neighborhood comments received during the review were from the Garden Valley Water and Sanitation District (District). The concerns raised pertain to the current 12-story office building being removed from the District. The representatives argue that the office building is a major water user in the District and removing the office building from the District would cause other users to pay substantially more in fees or the District itself may cease to exist. The representatives also asked that the City require the entire District to be annexed in this annexation and not allow a small portion of the District to be annexed by itself.

The City does not play a role in the private district discussion; therefore, staff requested that the applicant address the concerns raised by the representatives of the District. A response letter from the applicant's attorney Collins Cockrel and Cole is included in the City Planning Commission staff report. The applicant's attorney notes in his letter that this property will remain in the District unless the District grants the owner's petition for exclusion from the district. The owner acknowledges that even after annexation, they will continue be assessed property taxes payable to both the City and the District, unless the exclusion petition is granted. In addition, the owner acknowledges that they will be responsible to pay their share of the outstanding indebtedness and interest of the District. The district does not own their own raw water supply; instead they lease water from others and pay per the quantity of water supplied. If the 12-story office building does not receive any water from the District,

the District will not be required to pay for that water from the water suppliers.

Colorado Springs Utilities (CSU) has reviewed this annexation request and will require that the site be connected to City Utilities when annexed. In addition, CSU required that the owner provide a quitclaim deed and irrevocable consent to the appropriation, withdrawal and use of groundwater; this has been provided to the City.

This item supports the City's strategic goal relating to building community by fostering a land use pattern that encourages infill development.

Please see the attached City Planning Commission staff report for additional detailed analysis.

Financial Implications:

A Fiscal Impact Analysis (FIA) (EXHIBIT 2) was completed for this site by the City Budget Office. The FIA notes that the site is currently being serviced by public safety agencies and the surrounding infrastructure and roadways are already being maintained by the City. The study also states that there will be a positive cumulative cash flow for the City over the next 10 years.

Board/Commission Recommendation:

At their meeting on September 21, 2017 the City Planning Commission, after receiving a staff and applicant presentation and public input as part of the New Business calendar, voted unanimously 5-0-4 (5 yes, 0 no, 4 absent) to recommended approval of the annexation, zone establishment and concept plan.

Stakeholder Process:

The public process involved with the review of the application included posting the site and sending postcards to 13 property owners within 500 feet with the internal review and will be sent to property owners within 1000 feet prior to the City Planning Commission hearing. The comments received were from the existing water district, Garden Valley Water and Sanitation District. The primary concern was that the current 12-story structure is a major water user in the District and removing this user from the District would cause other users to pay substantially more in fees or the District itself may cease to exist. Another concern raised was that the District would like to be annexed as a whole.

Staff sent plans to the standard internal and external review agencies for comment. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, Police, Enumerations, Floodplain, Real Estate Services, City Landscape, Comcast, School District 2 and E-911. El Paso County reviewed the annexation and provided no comments.

Alternatives:

1. Uphold the action of the City Planning Commission.
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration.

Proposed Motion:

Adopt a resolution of finding that the 2864 South Circle Annexation meets the requirements of and fully complies with Part 1 of Article 12 of Title 31 C.R.S., the Municipal Annexation Act of 1965, as

amended, and Section 30 of Article II of the Colorado Constitution and that the property is eligible for annexation.

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