



Legislation Text

File #: 16-00233, **Version:** 3

Ordinance No. 16-39 correcting a legal description included in Ordinance 12-92 for the B&J Garcia Subdivision No. 2 zone change.

Presenter:

Hannah Van Nimwegen, Planner II, Land Use Review Division of the Planning and Community Development Department

Summary:

Applicant: Steve Zaleski of the Flying Horse Commercial Group

Owner: Johnny and Barbara Garcia

Location: 1216 North Circle Drive; or the southwest corner of Circle Drive and San Miguel Street

This is an ordinance amending Ordinance No. 12-92 to correct a portion of the attached legal description. Ordinance 12-92 amended the zoning map of the City of Colorado Springs pertaining to 2.09 acres, located at 1216 North Circle Drive. Ordinance 12-92 allowed a change of zone district from R (Residential, Estate) and PBC/CR (Planned Business Center with Conditions of Record) to R-5/CR (Multi-family residential with Conditions of Record) and PBC/CR (Planned Business Center with Conditions of Record). The portion of the legal description being amended describes the new R-5/CR zoned district boundaries

Previous Council Action:

On March 22, 2016, City Council approved this item on first reading.

On October 23, 2012 the City Council approved the Concept Plan which accompanied the first reading of the zone change ordinance. On November 13, 2012 the City Council approved on second reading the zone change from R (Residential, Estate) and PBC/CR (Planned Business Center with Conditions of Record) to R-5/CR (Multi-family residential with Conditions of Record) and PBC/CR (Planned Business Center with Conditions of Record) through Ordinance No. 12-92.

Background:

The property owners of 1216 North Circle Drive, Johnny and Barbara Garcia, rezoned their property in 2012 using a metes and bounds legal description. This metes and bounds legal description was used to describe the property and to also delineate the boundary between the proposed R-5/CR and PBC/CR zone districts as shown on the approved Concept Plan (Figure 4). This legal description is attached to Ordinance 12-92 (Figure 5). The Garcia's placed the western portion of the property, the R-5/CR zoned portion of the property, under contract to sell. It was discovered through an Improvement Survey Plat that the previous legal description did not accurately represent the boundaries of the R-5/CR zoned portion of the lot or the true size of the property. The Improvement Survey Plat (Figure 6) illustrates the western portion of the lot as roughly five feet longer along the

western property line, two feet shorter along the southern property line, roughly three feet longer along the eastern boundary, and roughly two feet shorter along the northern property line than what is described in the legal description and shown on the concept plan. A graphic depiction of the legal description before and after is attached as Figure 7.

This becomes an issue because the property was officially zoned to those metes and bounds attached to Ordinance 12-92. When the property is platted to the actual property lines, a nonconformity would be produced by creating a lot which contains two zones districts-the zone district which was approved with Ordinance 12-92 and the zone district which existed prior for the sliver of property which was not included in the legal description of Ordinance 12-92.

This item amends Ordinance 12-92 by attaching a corrected legal description for that portion of the subject property. All other provisions contained in Ordinance No. 12-92, including Conditions of Record, remain unchanged.

Land Use Review staff believes the proposed amendment to Ordinance 12-92 adheres to the intent of the rezoning as approved in said Ordinance. This amendment is being sought in order to “clean up” and avoid a potential issue with the purchase and platting of the property.

Financial Implications:

N/A

Board/Commission Recommendation:

At its meeting on September 20, 2012, City Planning Commission voted to recommend approval of the zone change and concept plan applications 6-1. Given that this is a correction of a technical error and that it does not change the intent of the original zone change, staff determined that Planning Commission review was not necessary.

Stakeholder Process:

Standard public notification occurred at the time of the zone change and concept plan applications and two neighborhood meetings were held in 2011 and 2012. A sign was posted on site notifying the public of the ordinance amendment and the City Council hearing 10 days prior to the March 22, 2016 meeting.

Alternatives:

There are no applicable alternatives to this item given that the recommended action corrects a technical error and does not modify previous Council action approving the zone change.

Proposed Motion:

Approve an ordinance amending Ordinance No. 12-92 correcting the attached legal description for the zone change from R and PBC/CR to R-5/CR and PBC/CR pertaining to 2.09 acres located at 1216 North Circle Drive.

An Ordinance amending Ordinance No. 12-92 amending the zoning map of the City of Colorado Springs pertaining to 2.09 acres, located at 1216 North Circle Drive.