

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: 3/14/2024
RE: CS233 Map Amendment (Rezoning) and SF2317 Final Plat for Mayberry Filing No. 4

Project Description

A request by Mayberry Communities, LLC for approval of a Map Amendment (Rezoning) 4.44 acres from PUD (Planned Unit Development) to CS (Commercial Service), and for approval of a Final Plat creating eight (8) commercial lots on 4.44 acres. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Highway 94 and Peyton Highway.

Notation

Please see the Planning Commission Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

Planning Commission Recommendation and Vote

Fuller moved / Trowbridge seconded to recommend approval for the Map Amendment (Rezoning), utilizing the resolution attached to the staff report with two (2) conditions and two (2) notations, and that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (7-0)**. The item was heard as a consent agenda item.

Fuller moved / Schuettepelz seconded to recommend approval for the Final Plat, utilizing the resolution attached to the staff report with nine (9) conditions, two (2) notations, and a recommended finding of sufficiency with regard to water quality, quantity, and dependability, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (7-0)**. The item was heard as a consent agenda item.

Discussion

Both items were heard as consent agenda items at the February 15, 2024, Planning Commission hearing and were unanimously recommended for approval with a vote of 7-0.

Attachments

1. Planning Commission Minutes from 2/15/2024.
2. Signed Planning Commission Resolutions.
3. Planning Commission Staff Report.
4. Draft BOCC Resolutions.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, February 15, 2024
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: JAY CARLSON, BECKY FULLER, JEFFREY MARKEWICH, WAYNE SMITH, BRYCE SCHUETTELPELZ, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS BRANDY MERRIAM, ERIC MORAES, AND KARA OFFNER.

STAFF PRESENT: JUSTIN KILGORE, ELIZABETH NIJKAMP, GILBERT LAFORCE, CHARLENE DURHAM, HAO VO, BRET DILTS, ED SCHOENHEIT, DANIEL TORRES, KARI PARSONS, RYAN HOWSER, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: NINA RUIZ, HERB ZIMMERMAN, LANNY KIDD, ANDREA BARLOW, AND LOREN MORELAND.

1. REPORT ITEMS

Mr. Kilgore advised the board that the next PC Hearing is Thursday, March 7, 2024, at 9:00 A.M.

Mr. LaForce, Development Services (Engineering) Manager with DPW, introduced two new staff members.

Mr. Dilts and **Ms. Vo** each introduced themselves.

2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held February 1, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (7-0).

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B. CS233

HOWSER

**MAP AMENDMENT (REZONING)
MAYBERRY FILING NO. 4**

A request by Mayberry Communities, LLC for approval of a Map Amendment (Rezoning) 4.44 acres from PUD (Planned Unit Development) to CS (Commercial Service). A concurrent Final Plat is also being requested. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Colorado State Highway 94 and Peyton Highway. (Parcel No. 3414102015) (Commissioner District No. 4)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: MS. FULLER MOVED / MR. TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER CS233 FOR A MAP AMENDMENT (REZONING), MAYBERRY FILING NO. 4, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

C. SF2317

HOWSER

**FINAL PLAT
MAYBERRY FILING NO. 4**

A request by Mayberry Communities, LLC for approval of a Final Plat illustrating eight (8) commercial lots on 4.44 acres. A concurrent Map Amendment (Rezoning) is also being requested. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Colorado State Highway 94 and Peyton Highway. (Parcel No. 3414102015) (Commissioner District No. 4)

NO PUBLIC COMMENT

DISCUSSION

Mr. Whitney mentioned that he saw a reference to add a seemingly significant plat note regarding geologic conditions and hazards. He doesn't see that plat note mentioned in the conditions or notations that are included in the motion. He asked if the staff report indicating importance is sufficient or if it should be included in the motion. He asked if it was already included by reference in the Pre-construction Conference notation.

Ms. Parsons explained that PCD staff is identifying that the applicant provided a geological and soils study that Colorado Geological Survey (CGS) has reviewed and provided comment. Through the review period, PCD staff utilizes CGS comments to enable the applicant to depict certain notes on the Preliminary Plan and Final Plat. She stated that because the applicant has already depicted the recommended notes, an additional condition of approval is not needed. PCD staff is pointing to the review comment because the approval criteria references constraints being mitigated so they do not impede development.

Mr. Whitney asked if that note can be seen on the Final Plat and if PCD staff is satisfied with the note.

Mr. Howser confirmed.

PC ACTION: MS. FULLER MOVED / MR. SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER SF2317 FOR A FINAL PLAT, MAYBERRY FILING NO. 4, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

D. SF2231

HOWSER

**FINAL PLAT
JOYFUL VIEW SUBDIVISION**

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat illustrating nine (9) single-family residential lots. The properties are zoned RR-5 (Residential Rural) and are located at 19925 Joyful View and 20045 Joyful View, Calhan, CO 80808. (Parcel Nos. 3300000466 and 3300000467) (Commissioner District No. 2)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. TROWBRIDGE.

4. CALLED-UP CONSENT ITEMS

3D. SF2231

HOWSER

**FINAL PLAT
JOYFUL VIEW SUBDIVISION**

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat illustrating nine (9) single-family residential lots. The properties are zoned RR-5 (Residential Rural) and are located at 19925 Joyful View and 20045 Joyful View, Calhan, CO 80808. (Parcel Nos. 3300000466 and 3300000467) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney clarified that his earlier question (regarding geological plat notes) was meant for this project. He appreciated the previous explanation. The presentation continued.

Mr. Carlson asked if the proposed cul-de-sac would allow sufficient access to Lot 4 (when considering the drainage constraints).

Mr. Schoenheit, with DPW Development Services (Engineering), confirmed it would allow access.

Mr. Carlson mentioned that most of the usable land on Lot 4 is at the southern end.

Mr. Markewich asked for clarification regarding the historic zoning change from A-4 to RR-5.

Mr. Howser explained that the change was strictly nomenclature; the zoning types are otherwise the same. The staff presentation concluded. The applicant's presentation began.

Ms. Ruiz, with Vertex Consulting Services, representing the applicant, addressed Mr. Carlson's comment. She explained that Lot 4 has about 2.5 acres of buildable area in the northern portion, which connects to the cul-de-sac. The applicant evaluated possible well and septic system locations to confirm the lot will be buildable without crossing the floodplain. The presentation continued.

Mr. Smith asked for further explanation regarding the fire cistern.

Ms. Ruiz referenced the proposed location of the cistern (on Lot 7). She explained that the developer is responsible for its construction. The Fire Department will inspect the cistern prior to any building permits being issued.

Mr. Whitney asked if all surrounding property was zoned RR-5. (It is.)

Mr. Markewich asked if there was any required ongoing maintenance for the fire cistern after its initial construction. He asked who will be responsible for ongoing road and cistern maintenance.

Ms. Ruiz explained that covenants will be established as part of the subdivision process. The covenants will establish a shared responsibility for the private drive as well as the cistern.

Mr. Trowbridge asked if the Fire Department will inspect the cistern on an ongoing basis or will the residents of the subdivision need to provide the Fire Department with regular inspection reports.

Ms. Ruiz stated the Fire Department would complete the inspections, but she's not sure how often. The applicant's presentation concluded.

PUBLIC COMMENTS

Mr. Herb Zimmerman spoke in opposition. He lives west of the subject property. He commended Mr. Schoenheit for his professionalism. He submitted a letter for himself as well as a neighbor. He stated that though the property was assigned zoning 40 years ago, much has happened since that time. He stated that because the parcel is landlocked, he thinks the PC should take into consideration everything that is surrounding to ensure it makes sense. He believes the property directly north is zoned A-35.

Mr. Carlson clarified that the land north of the subject property is zoned RR-5. (A zoning map was presented to show the surrounding zoning districts.)

Mr. Zimmerman observed and understood that the land immediately north of the subject property is zoned RR-5. He stated that regardless of the zoning district, all surrounding properties are made up of 35 acres or greater. He doesn't think the subdivision makes sense in the area because it is landlocked and surrounded by larger parcels.

Mr. Lanny Kidd spoke in opposition. He lives west of the subject property. He stated he purchased in the area because he didn't want very many neighbors. He stated there are currently no parcels in the area smaller than 35 acres. He worries that more houses will mean more dogs, which could kill his calves.

Ms. Ruiz responded to the public comments. Regarding the comment that the subdivision doesn't fit with the surrounding character, she pointed out that there are other 5-acre subdivisions in the vicinity. She stated that even though the immediately adjacent properties are not 5 acres, the area has been zoned RR-5 for 40 years. She stated that when the Master Plan was adopted, the subject area was recognized as appropriate for 5-acre lots.

DISCUSSION

Ms. Fuller stated she would be in support of the proposal. She stated splitting the parcels into 5-acre lots is allowed within RR-5, so the board is not in a position where they can restrict that right. She understands that it may feel like a big change in the character, but 5-acre lots are allowed within that zoning type.

Mr. Whitney agreed with Ms. Fuller. He understands the opposed neighbors' frustration as he also lives on acreage that is surrounded by parcels denser than his own. As Ms. Fuller stated, the board is not able to make recommendations based on personal preference, but by what is allowed by law and regulation. For that reason, he will also be in favor of the application.

Mr. Markewich stated he would also be in favor because he believes the application meets the review criteria. He mentioned that as time passes, many of the other large parcels may be similarly subdivided unless the zoning is changed.

PC ACTION: MR. SCHUETTELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3D, FILE NUMBER SF2231 FOR A FINAL PLAT, JOYFUL VIEW SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

5. REGULAR ITEMS (Items 5A through 5D were presented as a combined report and presentation.)

A. SKP235

PARSONS

SKETCH PLAN STERLING RANCH SKETCH PLAN AMENDMENT

A request by Classic SRJ Land, LLC for approval of a 212-acre Sketch Plan Amendment to the approved 1,444-acre Sterling Ranch Sketch Plan. Multiple concurrent Map Amendment (Rezoning) requests are also being considered. The applicant intends to develop single-family homes. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 522700006, 522700008, and 5200000553) (Commissioner District No. 2)

B. P239

PARSONS

MAP AMENDMENT (REZONING) STERLING RANCH NORTH RR-2.5 REZONE

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 33.97 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The applicant intends to develop single-family homes

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pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 522700006, 522700008, and 520000553) (Commissioner District No. 2)

C. P2310

PARSONS

**MAP AMENDMENT (REZONING)
STERLING RANCH NORTH RR-0.5 REZONE**

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 37.87 acres from RR-5 (Residential Rural) to RR-0.5 (Residential Rural). The applicant intends to develop single-family homes pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 522700006, 522700008, and 520000553) (Commissioner District No. 2)

D. P2311

PARSONS

**MAP AMENDMENT (REZONING)
STERLING RANCH NORTH RS-5000 REZONE**

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 328.72 acres from RR-5 (Residential Rural) to RS-5000 (Residential Suburban). The applicant intends to develop single-family homes pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 522700006, 522700008, and 520000553) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney mentioned that the staff report indicates there is no increase in the overall density for the Sketch Plan. He wonders about the potential for incrementalism. He asked if there is anything preventing the applicant from requesting further amendment to later increase the density.

Ms. Parsons replied that any applicant has the right to request any development. She mentioned that this Sketch Plan had a reduction in density previously, from 5,400 units to 4,800 units, when further details (like a potential ASD20 school location) were actualized. Areas that were fully built-out were updated on the Sketch Plan, which reduced the overall density. She stated that she would not anticipate the 4,800-unit cap increasing based on the planned roadway infrastructure. The presentation continued.

Mr. Carlson asked about the width of the buffer on the east side of the proposed amendment.

Ms. Parsons answered that the buffer will be approximately 40 acres. The width cannot be defined because exact dimensions are not provided on a Sketch Plan. That information will be available on the Preliminary Plan. The applicant might have a general idea of width, but she has not seen that plan yet. PCD and DPW staff presentations concluded.

Mr. Smith asked if the Sherriff's Office was a review agency.

Ms. Parsons confirmed that most applications, including this one, are sent to the Sherriff's Office for review and comment through the EDARP system. The Sherriff's Office did not provide comments or concerns regarding the Sterling Ranch Sketch Plan area, nor have they requested a substation, though they could in the future. The applicant's presentation began.

Ms. Barlow, with N.E.S., representing the applicant, addressed Mr. Carlson's question regarding the width of the buffer. She indicated different areas on the presentation image. The buffer varies from 50 feet wide in the north to 250 feet wide in the southern portion. The presentation continued.

Mr. Trowbridge stated he was not generally in favor of the proposed Sketch Plan amendment. He stated it appears that the larger lots are being shoved to the far north and the density is tripling, sometimes even quadrupling. He prefers a gradual transition in density. He remarked that while the Black Forest Preservation Plan (BFPP) is no longer in place on its own, it was part of the Master Plan discussion and much of its spirit was incorporated into the Plan, including gradual density transitions. He stated the revised transition happens very suddenly.

Ms. Barlow replied that she is aware of the Master Plan's process and how the BFPP as well as other small area plans were pulled in. She further stated that the ultimate decision regarding the subject area (and even further north) was to define it as the Suburban Residential placetype which is appropriate for new development ranging in density from 2.5-acre lots to 5 units per acre. The proposal is within that range. She believes they meet the Master Plan's new guidance. She stated the Master Plan supersedes the previous plans.

Mr. Trowbridge remarked that he didn't disagree.

Mr. Smith mentioned that the size of the lot has been discussed, but he wonders about the resulting affordability between each lot size.

Ms. Barlow clarified that Mr. Smith was asking about the ultimate price of the house after construction. She deferred to Mr. Moreland.

Mr. Loren Moreland, with Classic SRJ Land LLC, answered that they are evaluating variables, such as Metro Districts and what is already built in the region. He stated that higher density homes (3-5 units per acre) average between \$450,000-\$550,000, which he stated is becoming more affordable. He added that the 2.5-acre homes sold in TimberRidge cost around \$1.2 million. The 0.33-acre homes west of the subject area are selling for an average of \$930,000. He stated that as density increases, so does affordability.

Mr. Whitney asked for further explanation of the immediate surrounding development.

Ms. Barlow referred to an image in her slideshow presentation. The Retreat at TimberRidge PUD is west and northwest of the subject area. When the Sketch Plan was originally approved in 2008, the region west of the smokestack was zoned RR-5. It was rezoned to PUD in 2017. The Ranch's Sketch Plan, southeast of the subject area, approved 2,200 units within approximately 800 acres. The current zoning of that region is RR-2.5, but the Sketch Plan anticipates a range of densities; the largest lots will be 1-acre lots along the perimeter. Immediately east of the subject area, there are 5-acre lots. East of that, Eagleview Subdivision's Preliminary Plan was recently approved for 2.5-acre lots. Continuing east, the Paintbrush Hills subdivision has 5,000 to 12,000 sq ft lots.

Mr. Whitney asked if the purpose of the amendment was to accelerate density where it is appropriate to match the adjacent TimberRidge density.

Ms. Barlow agreed with that statement. The surrounding area has changed since 2008.

Mr. Whitney understood and agreed.

Ms. Barlow stated the applicant would not have requested an amendment if the surrounding changes had not been a factor. She further stated that while Classic Homes is the current developer of the subject and western area, they were not the original owner or initiator of the PUD change. She referred to another slideshow image that illustrated 2.5-acre lots along the north.

Ms. Fuller mentioned that the density transition lines are not random; they match what is adjacent.

Ms. Barlow confirmed and further pointed out how the proposed density mirrors the existing density to the west.

Mr. Whitney expressed his concern that if surrounding areas increase in density, further amendments might be requested.

Ms. Barlow mentioned that the area to the west is already built-out in the southern part and they are in the final stages along the north. That area is unlikely to change. If there are density changes that are approved in the east before the subject area is fully developed, she conceded that they might request an amendment to match that density. She remarked that buffers and transitions often create pockets of higher density once surrounding areas fully develop.

NO PUBLIC COMMENTS

DISCUSSION

Mr. Carlson stated he would normally agree with Mr. Trowbridge's remarks, but in this case, he appreciates the applicant's sensitivity to transition with the lots to the north and east. He specifically mentioned the "L" shape of the 0.5-acre rezone and the buffer region along the 5-acre properties. He commended the applicant.

PC ACTION: MS. FULLER MOVED / MR. SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER SKP235 FOR A SKETCH PLAN AMENDMENT, STERLING RANCH SKETCH PLAN AMENDMENT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MR. SCHUETTELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5B, FILE NUMBER P239 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RR-2.5 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MS. FULLER MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5C, FILE NUMBER P2310 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RR-0.5 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MR. SCHUETTPELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5D, FILE NUMBER P2311 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RS-5000 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

6. NON-ACTION ITEMS (NONE)

MEETING ADJOURNED at 10:47 A.M.

Minutes Prepared By: Miranda Benson

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Ms. Fuller moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. CS233

MAYBERRY FILING NO. 4 CS REZONE

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by this Commission on February 15, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. That proper posting, publication, and public notice was provided as required by law for the hearing before the Planning Commission;
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted, and that all interested persons and the general public were heard at that hearing;
4. That all exhibits were received into evidence;
5. That the proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

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6. That all data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. That for the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Map Amendment (Rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B of the El Paso County Land Development Code ("Code") (As Amended):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Mayberry Communities, LLC for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
2. Specific uses of the site shall be limited to those included in the traffic impact study provided with the Map Amendment (Rezoning) and Final Plat applications (PCD File Nos. CS233 & SF2317). The applicant shall be required to provide a revised traffic impact study to be submitted and approved prior to initiation of any uses beyond those included in the traffic impact study.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that

was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

Mr. Trowbridge seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	aye / no / non-voting / recused / <u>absent</u>
Sarah Brittain Jack	aye / no / non-voting / recused / <u>absent</u>
Jim Byers	aye / no / non-voting / recused / <u>absent</u>
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / <u>absent</u>
Eric Moraes	aye / no / non-voting / recused / <u>absent</u>
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 7 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 15th day of February 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
~~Thomas Bailey, Chair~~
Jay Carlson, Vice-Chair

CS233

EXHIBIT A

A Tract of land for the purpose of rezoning, being part of Tract C and part of Tract D, MAYBERRY, COLORADO SPRINGS

FILING NO. 2, a subdivision of land in the North-Half of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian, in the County of El Paso, State of Colorado, the plat of said subdivision recorded March 10, 2021 in the Office of the Clerk of El Paso County, Colorado as Reception Number 221714698, said Tract more particularly described as follows:

Commencing at the North Quarter-corner of said Section 14, monumented by a found rebar with a 2 inch cap marked "PLS 11624" in a monument box, from whence the Northeast corner of said Section 14 monumented by a found 3/4 inch square bar with no cap in a monument box bears South 89° 44' 50" East a distance of 2606.58 feet as shown on said plat, being the North line of the Northeast Quarter of said Section 14 and all bearings herein are relative thereto; thence South 89° 44' 50" East 1303.29 feet on said North line to the Northeast corner of the West-Half of said Northeast Quarter; thence South 00° 21' 12" East 39.54 feet on the East line of said West-Half to the Northeast corner of said Tract D and the POINT OF BEGINNING of the Tract of land herein described;

Thence continuing South 00° 21' 12" East 475.02 feet on the East line of said Tract D; Thence departing said East line North 89° 28' 59" West 722.98 feet to a corner on the southerly line of said Tract A, being common with a corner on the northerly line of said Tract C; Thence North 00° 00' 00" East 10.73 feet on said southerly line, being coterminous with said northerly line of Tract C, to a corner common to said Tracts A and C; Thence South 89° 28' 59" East 341.89 feet continuing on said southerly line, a portion of which being coterminous with said northerly line of Tract C, to the Southeast corner of said Tract A; Thence on the easterly line segments of said Tract A, being coterminous with the westerly line segments of said Tract D, the following three (3) courses and distances:

1) North 00° 00' 00" West 223.01 feet;

2) Thence North 89° 28' 59" West 40.00 feet;

3) Thence North 00° 00' 00" East 241.26 feet to the Northwest corner of said Tract D;

Thence South 89° 28' 49" East 418.15 feet on the North line of said Tract D to the POINT OF BEGINNING, said Tract containing 193,628 square feet or 4.445 acres; said Tract above described also being part of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 4

FINAL PLAT (RECOMMEND APPROVAL)

Ms. Fuller moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF2317

MAYBERRY FILING NO. 4

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Mayberry Filing No. 4 Subdivision for the property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on February 15, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

SF2317

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("Code") (2022):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved Preliminary Plan;
3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Mayberry Communities, LLC for a final plat of Mayberry Filing No. 4 be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.

5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated November 21, 2023, as provided by the County Attorney's Office.
9. The applicant shall address all outstanding engineering comments and receive acceptance of the Traffic Impact Study and approval of the Construction Documents by the ECM Administrator prior to issuance of a construction permit.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held and a Construction Permit is issued by the appropriate El Paso County staff.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

Mr. Schvettpelz seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	aye / no / non-voting / recused <u>absent</u>
Sarah Brittain Jack	aye / no / non-voting / recused <u>absent</u>
Jim Byers	aye / no / non-voting / recused <u>absent</u>
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent

Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / <u>absent</u>
Eric Moraes	aye / no / non-voting / recused / <u>absent</u>
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 7 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 15th day of February 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
~~Thomas Bailey, Chair~~
 Jay Carlson, Vice-Chair

EXHIBIT A

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Thence South 89° 28' 49" East 418.15 feet on the North line of said Tract D to the POINT OF BEGINNING, said Tract containing 193,628 square feet or 4.445 acres; said Tract above described also being part of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 4

COMMISSIONERS:
CAMI BREMER (CHAIR)
CARRIE GEITNER (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ryan Howser, AICP, Planner III
Daniel Torres, PE, Senior Engineer
Meggan Herington, AICP, Executive Director

RE: Project File Number: CS233 and SF2317
Project Name: Mayberry Filing No. 4 CS Rezone and Final Plat
Parcel Number: 3414102015

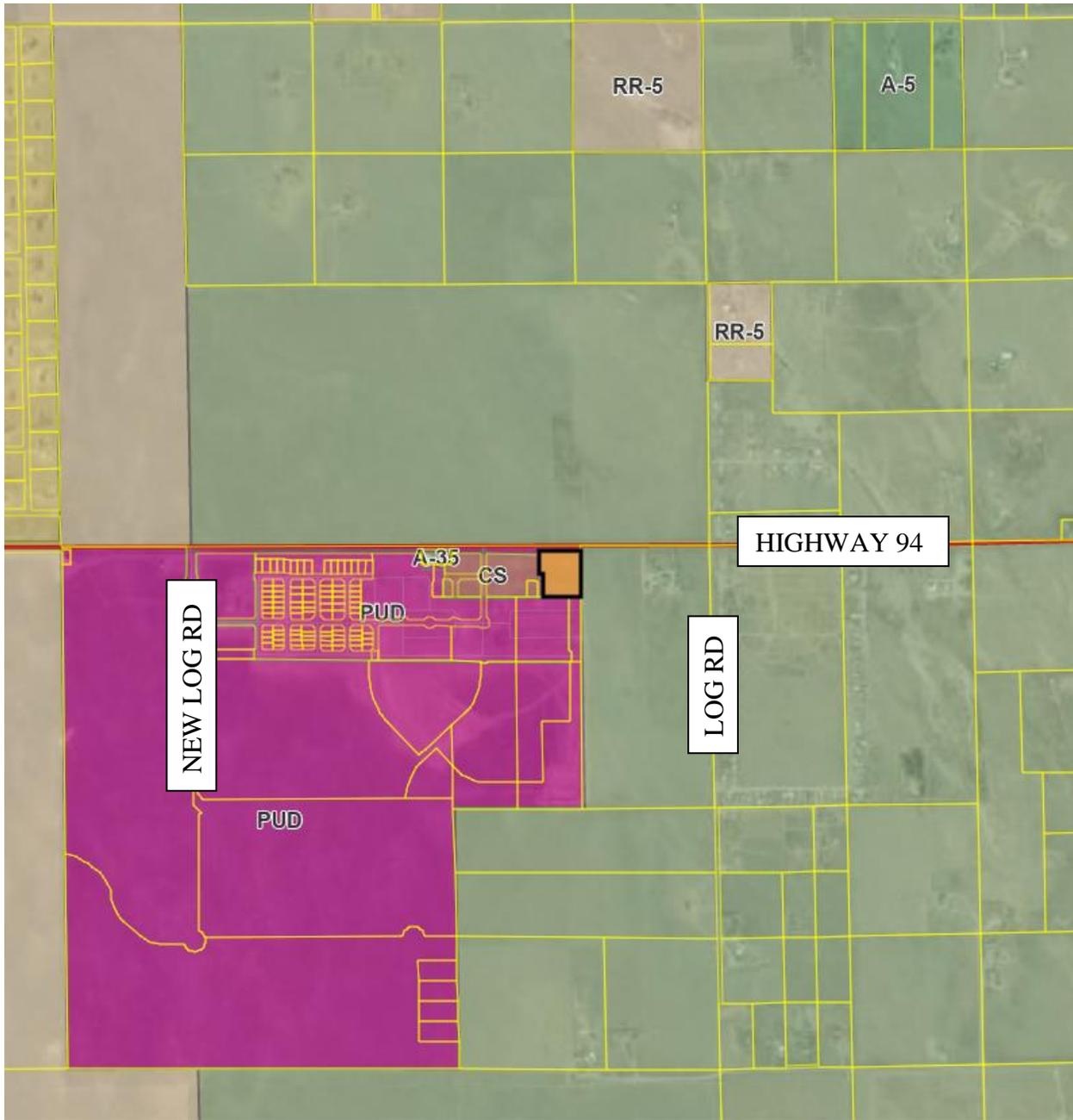
OWNER:	REPRESENTATIVE:
Mayberry Communities, LLC PO Box 675725 Rancho Santa Fe, CA 92067	Mayberry Communities, LLC PO Box 675725 Rancho Santa Fe, CA 92067

Commissioner District: 4

Planning Commission Hearing Date:	2/15/2024
Board of County Commissioners Hearing Date:	3/14/2024

EXECUTIVE SUMMARY

A request by Mayberry Communities, LLC for approval of a Map Amendment (Rezoning) of 4.44 acres from PUD (Planned Unit Development) to CS (Commercial Service) and a Final Plat creating eight (8) commercial lots. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Highway 94 and Peyton Highway.



VICINITY MAP

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A. AUTHORIZATION TO SIGN: Final Plat and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. APPROVAL CRITERIA

In approving a Map Amendment (Rezoning), the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 Map Amendment (Rezoning) of the El Paso County Land Development Code ("Code") (as amended):

- *The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;*
- *The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;*
- *The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and*
- *The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.*

In approving a Final Plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the Code (as amended):

- *The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.*
- *The subdivision is consistent with the purposes of the Code.*
- *The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.*
- *Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code, or, with respect to applications for administrative Final Plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval.*
- *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code.*



- *All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].*
- *Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual (“ECM”) are provided by the design.*
- *The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.*
- *Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and ECM.*
- *The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.*
- *Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.*
- *The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.*
- *The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.*
- *Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.*
- *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.*
- *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].*



C. LOCATION

North:	A-35 (Agricultural)	Vacant
South:	PUD (Planned Unit Development)	Vacant
East:	A-35 (Agricultural)	Residential
West:	CS (Commercial Service)	Commercial

D. BACKGROUND

Mayberry (formerly known as Ellicott Town Center) is a proposed urban-density subdivision designed to create a functional and pedestrian-friendly development in the Ellicott community. The development is intended to serve as a community center in support of the goals and visions for the future of Ellicott as envisioned in the past Ellicott Valley Comprehensive Plan (1989) and the recently adopted Your El Paso Master Plan (2021). A full history of the development and active entitlements follows.

The subject property was zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of El Paso County (Resolution No. 99-101). The property was rezoned from A-35 to PUD (Planned Unit Development) as part of the Viewpoint Village Subdivision PUD Development Plan (PCD File No. PUD-01-003) on March 14, 2002 (Resolution No. 02-97).

The property is subject to the Ellicott Town Center Sketch Plan (PCD File No. SKP-05-005), which was approved by the BoCC on January 12, 2006 (Resolution No. 06-18). The property was subsequently rezoned from the Viewpoint Village PUD to the Ellicott Town Center PUD (PCD File No. PUD-05-021) on May 11, 2006 (Resolution No. 06-161). The Ellicott Town Center Sketch Plan and PUD incorporate a diverse variety of uses, including residential, commercial, industrial, and institutional uses; however, the Ellicott Town Center PUD was established as a conceptual PUD (referred to at the time as an Overall PUD) and did not establish dimensional standards. The applicant is required to rezone the subject property to either a site-specific PUD or a conventional zoning district to establish dimensional standards.

The Mayberry Phase 1 Preliminary Plan and PUD Development Plan was approved by the BoCC on April 5, 2022 (Resolution No. 22-121); however, this site-specific PUD Development Plan excluded the subject property. The Mayberry, Colorado Springs Filing No. 2 Final Plat was approved on December 22, 2020 (Plat No. 14698). The subject property was platted as a part of Tract D and was designated as future development at

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that time. Mayberry, Colorado Springs Filing No. 3 was approved on November 15, 2023 (PCD File No. SF-22-019). The applicant is now requesting to rezone the subject property from PUD to CS, and to subdivide the property to create eight (8) commercial lots.

E. ZONING DISTRICT ANALYSIS

The applicant is requesting to rezone 4.44 acres from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district. The CS (Commercial Service) zoning district is intended to accommodate retail, wholesale or service commercial uses that serve the general public. The density and dimensional standards for the existing and proposed zoning districts are as follows:

	Existing Zoning District: PUD (Planned Unit Development)	Proposed Zoning District: CS (Commercial Service)
Minimum Zoning District Area	N/A	2 acres
Minimum Lot Size	N/A	N/A
Front Setback	N/A	25 ft.
Rear Setback	N/A	25 ft.
Side Setback	N/A	25 ft.
Maximum Lot Coverage	N/A	N/A
Maximum Height	N/A	45 ft.

The subject property is adjacent to property within the Mayberry, Colorado Springs Filing No. 2 subdivision which is zoned CS. Filing No. 4 is intended to be an extension of the commercial development located within Filing No. 2 and is intended to provide additional commercial services in close proximity to the ongoing residential development within the Mayberry community.

F. MASTER PLAN COMPLIANCE

1. Your El Paso Master Plan

a. Placetype Character: Suburban Residential

Suburban Residential is characterized by predominantly residential areas with mostly single-family detached housing. This placetype can also include limited single-family attached and multifamily housing, provided such development is not the dominant development type and is supportive of and compatible with the overall



single-family character of the area. The Suburban Residential placetype generally supports accessory dwelling units. This placetype often deviates from the traditional grid pattern of streets and contains a more curvilinear pattern.

Although primarily a residential area, this placetype includes limited retail and service uses, typically located at major intersections or along perimeter streets. Utilities, such as water and wastewater services are consolidated and shared by clusters of developments, dependent on the subdivision or area of the County.

Some County suburban areas may be difficult to distinguish from suburban development within city limits. Examples of the Suburban Residential placetype in El Paso County are Security, Widefield, Woodmen Hills, and similar areas in Falcon.

Recommended Land Uses:

Primary

- *Single-family Detached Residential with lots sizes smaller than 2.5 acres per lot, up to 5 units per acre*

Supporting

- *Single-family Attached*
- *Multifamily Residential*
- *Parks/Open Space*
- *Commercial Retail*
- *Commercial Service*
- *Institutional*

Analysis:

The property is located within the Suburban Residential placetype. The Suburban Residential placetype comprises the County's traditional residential neighborhoods with supporting commercial uses at key intersections. Relevant goals and objectives are as follows:

Goal LU3 – *Encourage a range of development types to support a variety of land uses.*

Objective LU3-1 – *Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.*

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Goal HC3 Specific Strategy – Encourage expansion of the Rural Center in Ellicott to support the daily commercial needs of residents near Schriever Air Force Base.

Objective ED3-6 – Prioritize commercial use as development opportunities arise in order to support the growing residential base in the rural areas.

Goal ED3 Priority – Work to expand the Ellicott Rural Center with additional commercial uses to help support the surrounding growing residential including a larger grocery store, additional restaurants, coffee shops, and service businesses.

Goal ED3 Specific Strategy – New residential uses in the Ellicott community would further support expansion of the Ellicott Rural Center area, which could help provide areas to the east with better access to goods and services.

The property is located in an area deemed appropriate for commercial development as a supporting land use. The property is located adjacent to CS-zoned property and is located along Colorado State Highway 94, which is identified as a suitable location for commercial uses. The property is not located within the Ellicott Rural Center; however, the close proximity to the Rural Center may influence development along the Highway 94 corridor and the Master Plan identifies several goals and strategies encouraging the expansion of the Rural Center.

b. Area of Change Designation: New Development

These areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.

Analysis:

The property is located in an area which is expected to completely or significantly change in character due to primarily being undeveloped. A relevant priority is as follows:

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Goal LU3 Specific Strategy Priority – *The New Development areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built out area should be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.*

The level of change proposed with the Map Amendment (Rezoning) and Final Plat is consistent with the level of change identified in the Area of Change, as the character of the area is expected to be transformed. The subject property is located within an area that is in the process of building out, which aligns with the level of change expected in the New Development Area of Change.

c. Key Area Influences: Small Towns & Rural Communities

This Key Area includes both incorporated and unincorporated communities in El Paso County. Incorporated towns including Calhan, Green Mountain Falls, Palmer Lake, and Ramah have their own established identities that support neighboring rural residents. Similarly, unincorporated rural communities have commercial uses and community facilities that serve surrounding residents and create a sense of community even without a formalized municipal governmental boundary. The unincorporated areas that comprise this Key Area are Black Forest, Ellicott, Hanover, Peyton, Rush, Truckton, and Yoder. Regardless of municipal status, all of these places function as a community that supports the needs of a significant portion of the County's rural population. To better serve this population, additional commercial development should be prioritized in the unincorporated places, or where appropriate, additional commercial development should be annexed by the municipalities. Additional commercial uses within these communities improves access to necessary goods and services such as grocery stores and gas stations.

Analysis:

The subject property is located near the Ellicott area of the County which is identified as being within the Small Towns & Rural Communities Key Area. Commercial services are identified as a priority in and near this Key Area.

d. Other Implications (Priority Development, Housing, etc.)

The subject property is not located within a Priority Development Area.

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2. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – *Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

Policy 1.1.1 – *Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.*

Goal 1.2 – *Integrate water and land use planning.*

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 4c for central water providers:

The Plan identifies the current demand for Region 4c to be 2,970 acre-feet per year (AFY) (Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 for Region 4c is at 3,967 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 4c is at 4,826 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

A finding of water sufficiency is not required with a Map Amendment (Rezoning); however, water sufficiency was analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has



recommended that there is an adequate water supply in terms of quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies eolian deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified during the review of the Map Amendment (Rezoning) and Final Plat applications.

2. Floodplain

The property is not located within a defined floodplain as determined from review of the FEMA Flood Insurance Rate Map panel number 08041C0810G, dated December 7, 2018.

3. Drainage and Erosion

The subdivision is located within the Ellicott Consolidated Basin (CHBS1200), which is unstudied with no associated drainage or bridge fees.

The site generally drains to the southeast. Stormwater runoff from the site will be collected via a storm sewer system and will be directed into an existing extended detention basins identified as Pond D. Pond D is being constructed with the recently recorded Mayberry, Colorado Springs Filing No. 3 (Plat No. 15221). This pond will provide the necessary permanent stormwater quality and flood control detention for the proposed development. Pond D is a private facility maintained by the Mayberry, Colorado Springs Metropolitan District. According to the submitted drainage report, this development will have no adverse drainage impacts on downstream or surrounding areas.



A grading and erosion control plan that identifies construction best management practices (BMPs) to prevent sediment and debris from affecting adjoining properties and the public stormwater system has been submitted.

4. Transportation

The development is located southwest of State Highway 94 and Log Road. The primary access to the site will be via Springs Road at State Highway 94. Highway 94 is a Colorado Department of Transportation (CDOT) owned and maintained highway. The applicant will need to comply with any CDOT access permit requirements. The submitted traffic impact study identifies that direct access to the site will be via a proposed internal Urban Local road that intersects with Springs Road, a Collector roadway.

The traffic study submitted provides recommended off-site and on-site improvements. The traffic analysis and recommended improvements are generally in conformance with the El Paso County 2016 Major Transportation Corridors Plan Update. The traffic study is currently in review as outstanding comments are being finalized by the applicant.

The development will be subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

H. SERVICES

1. Water

Water is provided by Ellicott Utilities Company, LLC. The applicant has shown a sufficient water supply for the required 300-year period. The State Water Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office is recommending a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health is recommending a finding of sufficiency with regard to water quality.

2. Sanitation

Wastewater is provided by Ellicott Utilities Company, LLC. The applicant has submitted a Wastewater Treatment Report that indicates that Ellicott Utilities



Company, LLC has adequate wastewater capacity to provide service to the proposed development.

3. Emergency Services

The property is within the Ellicott Fire Protection District. The District was sent a referral and has no outstanding comments.

4. Utilities

Mountain View Electric Association (MVEA) provides electrical service to the property. MVEA was sent a referral and has no outstanding comments. Black Hills Energy (BHE) provides natural gas service to the property. BHE was sent a referral and did not provide a response.

5. Metropolitan Districts

The subject property is located within the boundaries of the Mayberry, Colorado Springs Metropolitan Districts No. 1. It is anticipated that the water and wastewater infrastructure will be transferred from the Ellicott Utilities Company to the Mayberry, Colorado Springs Metropolitan District. The responsibilities of the Mayberry, Colorado Springs Metropolitan Districts include: 1) street improvements and safety protection; 2) design, construction, and maintenance of drainage facilities; 3) design, land acquisition, construction, and maintenance of recreation facilities; 4) mosquito control; 5) design, acquisition, construction, installation, and operation and maintenance of television relay and translation facilities; 6) covenant enforcement, 7) security services, 8) solid waste disposal, and 9) financing, design, permitting, construction, and installation of public water and sanitation systems.

5. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a Map Amendment (Rezoning) application, nor are they applicable to commercial subdivisions.

6. Schools

Land dedication and fees in lieu of school land dedication are not required for a Map Amendment (Rezoning) application, nor are they applicable to commercial subdivisions.



I. APPLICABLE RESOLUTIONS

The Map Amendment (Rezoning) request must be approved prior to the Final Plat approval. See attached resolutions.

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 Map Amendment (Rezoning) of the El Paso County Land Development Code (as amended), staff recommends the following conditions and notations:

CONDITIONS

1. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
2. Specific uses of the site shall be limited to those included in the traffic impact study provided with the Map Amendment (Rezoning) and Final Plat applications (PCD File Nos. CS233 & SF2317). The applicant shall be required to provide a revised traffic impact study to be submitted and approved prior to initiation of any uses beyond those included in the traffic impact study.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.



2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

Should the Planning Commission and Board of County Commissioners find that the Final Plat request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (as amended) staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.

2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated November 21, 2023, as provided by the County Attorney's Office.
9. The applicant shall address all outstanding engineering comments and receive acceptance of the Traffic Impact Study and approval of the Construction Documents by the ECM Administrator prior to issuance of a construction permit.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held and a Construction Permit is issued by the appropriate El Paso County staff.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified one (1) adjoining property owner on January 31, 2024 for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

Map Series
 Map Amendment (Rezoning) Letter of Intent
 Rezone Map
 Draft Map Amendment (Rezoning) Resolution
 Final Plat Letter of Intent
 Plat Drawing
 CAO Letter
 Draft Final Plat Resolution

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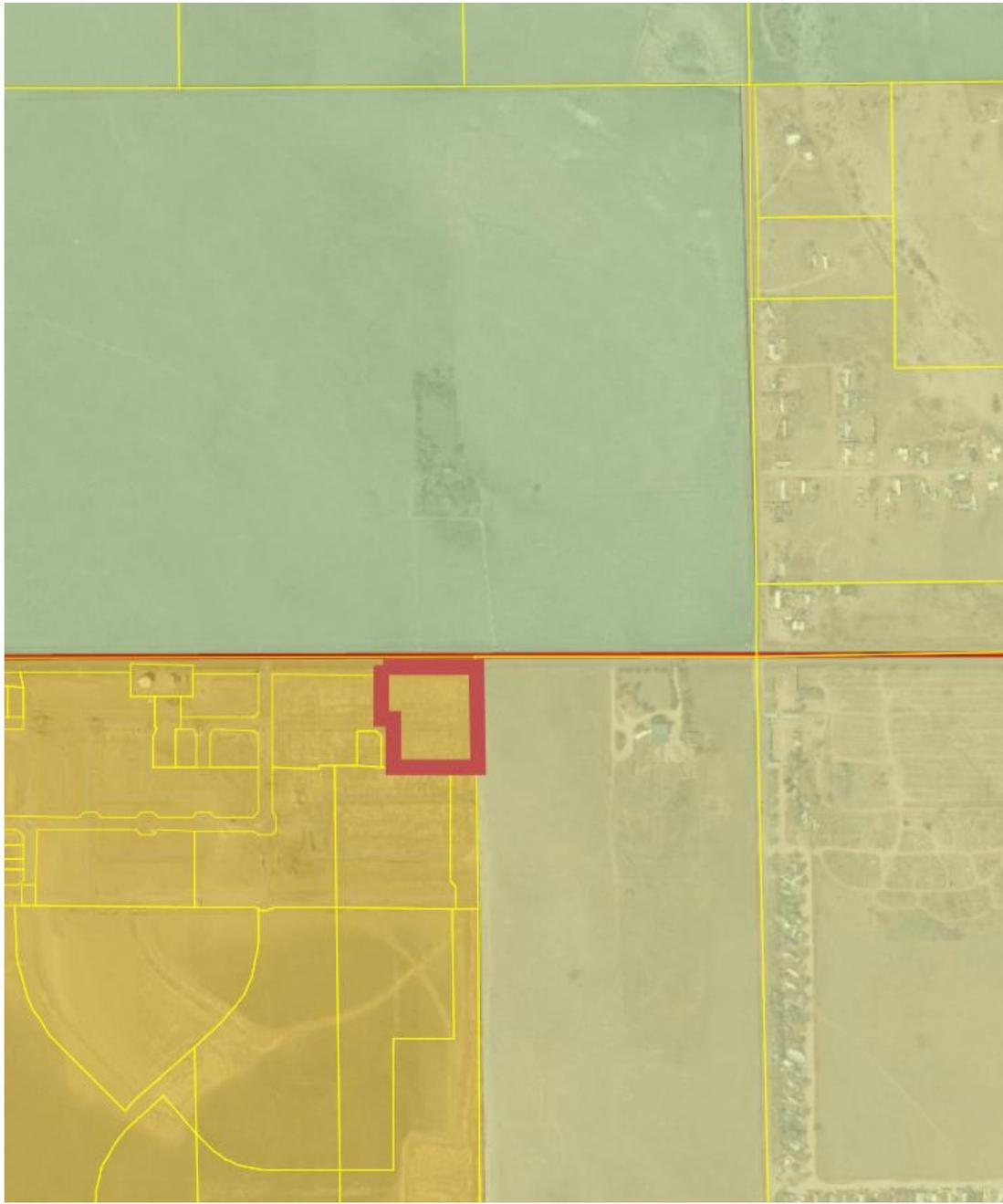


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Map Exhibit #1: Context



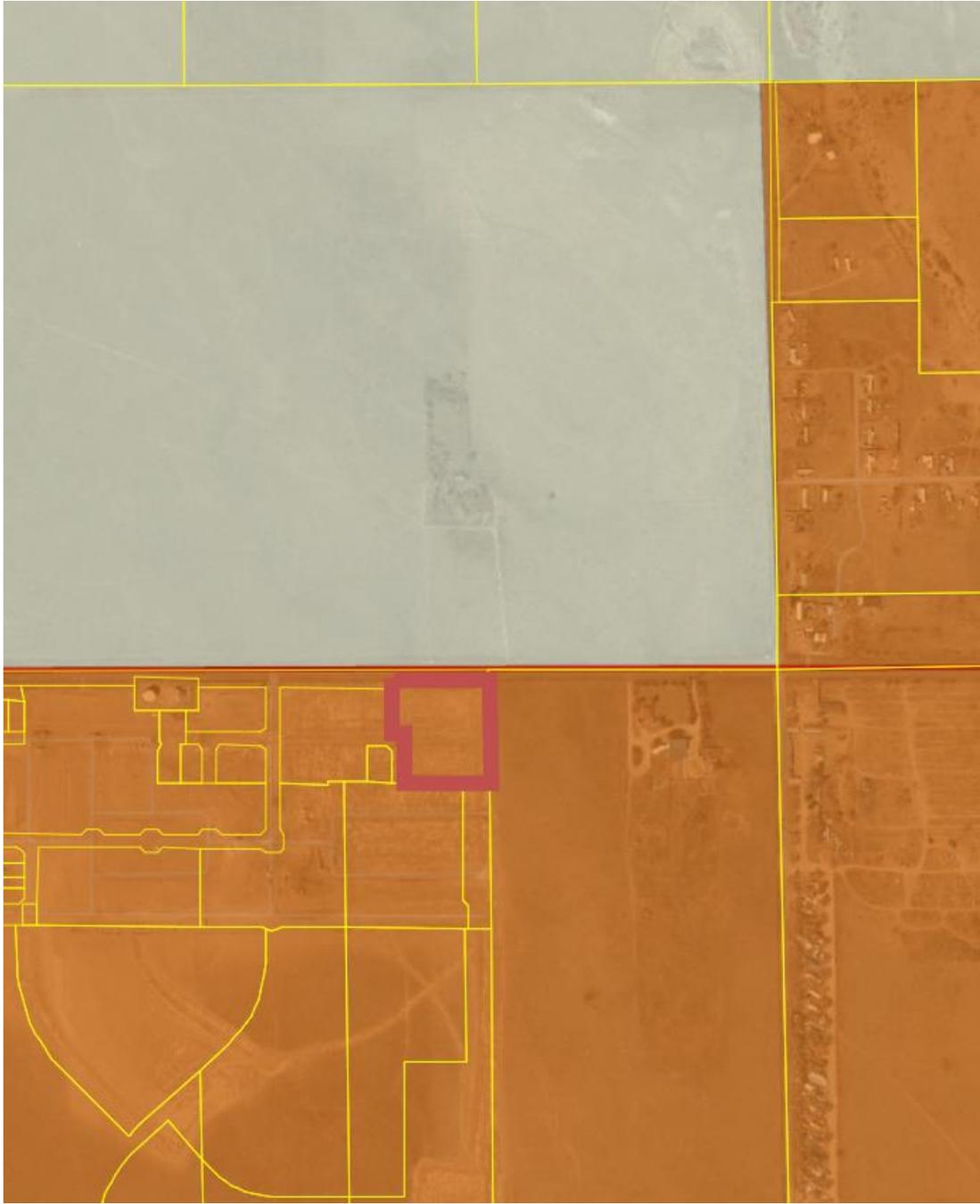
Map Exhibit #2: Placetype



Legend

- | | |
|---|---|
|  Rural |  Employment Center |
|  Large-Lot Residential |  Regional Open Space |
|  Suburban Residential |  Mountain Interface |
|  Urban Residential |  Military |
|  Rural Center |  Utility |
|  Regional Center |  Incorporated Area |

Map Exhibit #3: Area of Change



Legend

-  Protected/Conservation Area
-  Minimal Change: Undeveloped
-  Minimal Change: Developed
-  New Development
-  Transition



APPLICANT-OWNER/CONSULTANT INFORMATION:

OWNER/APPLICANT

MAYBERRY COMMUNITIES, LLC
428 GARDEN PARK AVENUE,
MAYBERRY, CO 80808
scottsouders@mayberrycoloradosprings.com
719-922-2181

PLANNING SUPPORT

KIMLEY-HORN AND ASSOCIATES, INC.
2 NORTH NEVADA AVENUE, SUITE 900
COLORADO SPRINGS, CO 80903
Larry.salazar@kimley-horn.com
719-284-7829

ENGINEERING/SURVEYING

R&R ENGINEERING AND SURVEYORS, INC.
1635 WEST 13TH AVENUE, SUITE 310
DENVER, CO 80204
cdayton@rrengineers.com
720-390-5513

LOCATION, ACREAGE, PARCEL ID INFO, & ZONING

The application for a map amendment (rezoning) includes Parcel No. 3414102015. The proposed rezoning is located near the southeast corner of the intersection of State Highway 94 and future Springs Road (see vicinity map insert and map exhibit for details). The total acreage of the proposed rezone is ±4.28. (Currently Zoned: Planned Unit Development [PUD]).



REQUEST

The application is to Rezone 4.28 acres from the PUD zone to the Commercial Services zoning district (CS). The application includes the following request:

- Approval to rezone Parcel No. 3414102015 to CS to match adjacent Parcels, 3414102013 and 3414102014, located west of said parcel.
- The Rezone process is projected to run concurrently with the site development plan of all three parcels for the purpose of being replated at a later date to include a total of eight (8) commercial lots.
- The rezone of will be for commercial use, as proposed in the traffic study.

The specific uses of the site shall be limited to those included in the traffic impact study provided with PCD file no. SF2317. The applicant shall be required to provide a revised traffic impact study to be submitted and approved prior to initiation of any uses beyond those included in the traffic impact study.

JUSTIFICATION

The applicant requests approval of the rezoning based on findings of compliance with the following Goals:

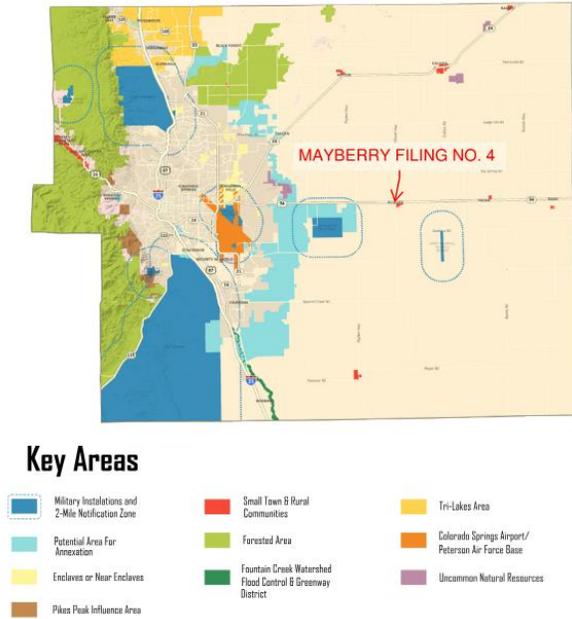
- Goal 1.1 - Ensure compatibility with established character and infrastructure capacity.
- Goal 1.3 - Encourage a range of development types to support a variety of land uses.

The proposed Rezone from the PUD district to the CS district provides opportunity for the developer to include additional commercial uses in this area, designating a CS zoned district creates a buffer from the residential use PUD development to the south from the State Highway 94 corridor. The proposed CS district and future plans to subdivide the parcels into eight (8) commercial lots allow the developer to maintain compliance with the previously approved Ellicott Town Center (SKP-05-005), soon to be amended to the proposed "Mayberry Communities Sketch Plan". In addition, the subject parcels directly abut State Highway 94 which is a busy corridor with vehicles traveling at high rates of speed creating above average noise. Providing commercial development directly adjacent to this expressway will act as a transition from this corridor into the Mayberry development. Furthermore, this commercial development, with any buffering and code compliant landscaping, will buffer future and planned residential developments in the surrounding area that are located within the Suburban and Rural placetypes to the east, west, and south.

PLACETYPES	LAND USES																			
	Agriculture	Farm/Homesite	Estate	Single-Family Detached	Single-Family Attached	Multifamily	Mixed Use	Restaurant	Commercial Retail	Commercial Service	Tourism/Commercial	Entertainment and Arts	Light Industrial/Business Park	Heavy Industrial	Military Operation	Parks and Open Spaces	Natural and Paleontological	Institutional	Utility	
Rural	●	●	○																	○
Large-Lot	○		●						○											○
Suburban				●	○	○			○	○										○
Urban Residential				●	●	○	○	○	○	○		○								○
Rural Center				●	○	○		●	●	●										●
Regional Center					○	●	○	●	●	●	●	●	○							○
Employment Center								○	○	○		●	●	●						
Regional Open Space																●	●			
Mountain Interface				○				○	○	○	○				●	●			○	
Military				○	○	●	○	○	○	○	○	●	●	●	○	○			○	
Utility																○				●

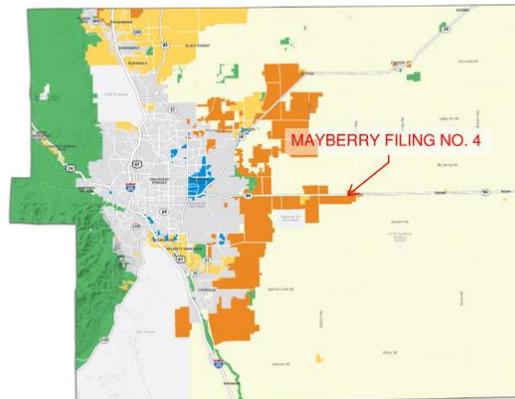
● Primary Land Use: More prominent and play a pivotal role in characterizing that placetype
 ○ Supporting Land Use: Less prevalent and serve to support the primary land use.

Key Areas:



The property is not located within the ten (10) classifications of key areas.

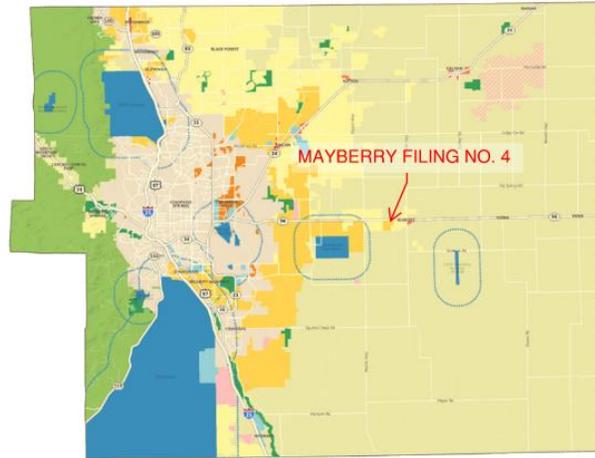
Areas of Change:



Areas of Change

- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed
- New Development
- Transition

Mayberry Filing No 4 Rezone is located in the area expected for “New Development”. It is understood that these areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one, such as an employment hub or business park adjacent to an urban neighborhood.



Placetypes

 Military	 Urban Residential	 Regional Open Space
 Rural	 Rural Center	 Mountain Interface
 Large Lot Residential	 Regional Center	 Utility
 Suburban Residential	 Employment Center	 Incorporated Area

Mayberry Filing No. 4 is located within the Suburban Residential type. This land use is designated for Suburban Residential, Traditional Residential neighborhoods with supporting commercial uses at key intersections. The Suburban place type generally supports the proposed development pattern and the support of limited accessory dwelling units as well.

- The rezone would be consistent with this placetype.
- The rezone and the code would protect the intent of the Placetype, by the procedures and standards intended to promote safe and orderly development.
- The proposal would provide for the land uses in relation to existing and predicted patterns of growth in the area.
- The proposal is consistent with available and necessary services.
- The rezone would have no impact on any currently approved sketch plans.

Sec. 5.3.5.B Map Amendment (Rezoning)

(B) Criteria for Approval. In approving a Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;

The site, and zone change are in conformance with the El Paso County Master Plan, the rezone is a minor portion of the overall Mayberry Communities Sketch Plan Amendment (SKP-05-005), adjacent properties are zoned CS and PUD.

- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
The requested rezone is in compliance with applicable statutory provisions.
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions;
The proposed land use of CS is adjacent to existing CS zones and is in compliance with the existing Sketch Plan (SKP-05-005) and proposed Mayberry Communities Sketch Plan Amendment, to be approved.
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.
Site is suitable for intended use.

Water Master Plan:

Under the Colorado Revised Statutes, Title 32. This property is within the Ellicott Utilities district boundary and will consistently follow the rules and regulations per the El Paso County Water Master Plan,

- A sufficient water supply has been clarified or provided through existing private wells. The wells have been permitted per quantity and quality standards set forth in the State water supply standards.

Wastewater systems:

- Wastewater services will be provided by way of Ellicott Utilities district boundary.

Electric

- Electric service will be provided through Mountain View Electric.

Gas

- Gas service will be provided through Black Hills Energy.

Natural or Physical site features:

The Zone Change will support the preservation of the natural features and drainages of the site and surrounding lands:

- Site Natural Features:
 - Site is located within the Ellicott Consolidated drainage basin (CHWS0200). Data provided by Muller Engineering Company; (1988)



- The topography of the site includes rolling hills with one drainage way, extending from north to south through the property. The existing drainage ways are wide and without a defined flow path; no erosion is anticipated.

- The site consists of;
 - An area of minimal flood hazard "Zone X" per the National Flood Hazard Layer FIRMette (08041C0820G)

National Flood Hazard Layer FIRMette



SEE HIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

Legend

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE) Zone A, X, F00
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

HAZARD AREAS

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot, or with drainage areas of less than one square mile Zone V
- Future Conditions 1% Annual Chance Flood Hazard Zone F
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS OF FLOOD HAZARD

- no screen: Area of Minimal Flood Hazard Zone X
- Effective LOMs
- Area of Undetermined Flood Hazard Zone D

OTHER AREAS

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

GENERAL STRUCTURES

- Cross Sections with 1% Annual Chance
- Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

OTHER FEATURES

- Digital Data Available
- No Digital Data Available
- Unmapped

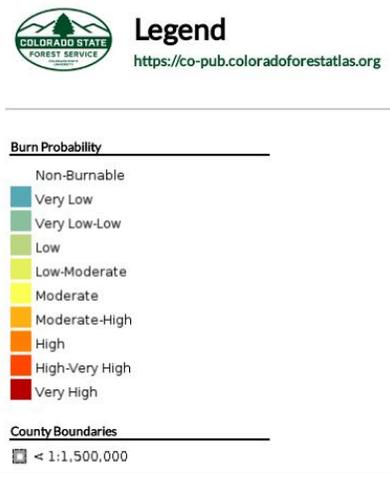
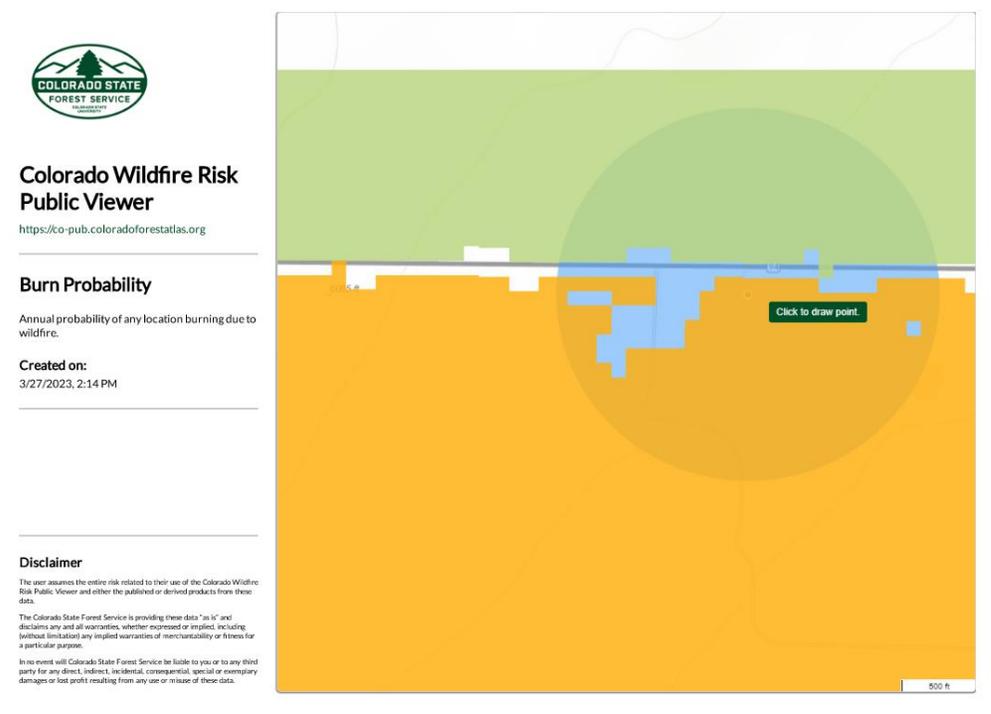
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 3/27/2023 at 4:02 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unrendered areas cannot be used for regulatory purposes.

- o Said Site is mapped as low to moderate-high per the wildfire risk public viewer.



Wildlife:

Impacts are expected to be very low.

Community Outreach:

Summarizing any community outreach efforts by the applicant that have occurred or are planned as part of the request.

- **Adjacent owner notification letters were sent out 3/24/2023 informing neighbors that a rezone and replat of said property will be completed. No comments have been received at this time.**
- **No additional community outreach has been conducted on the zone change to date.**

A Summary of anticipated traffic generation and access

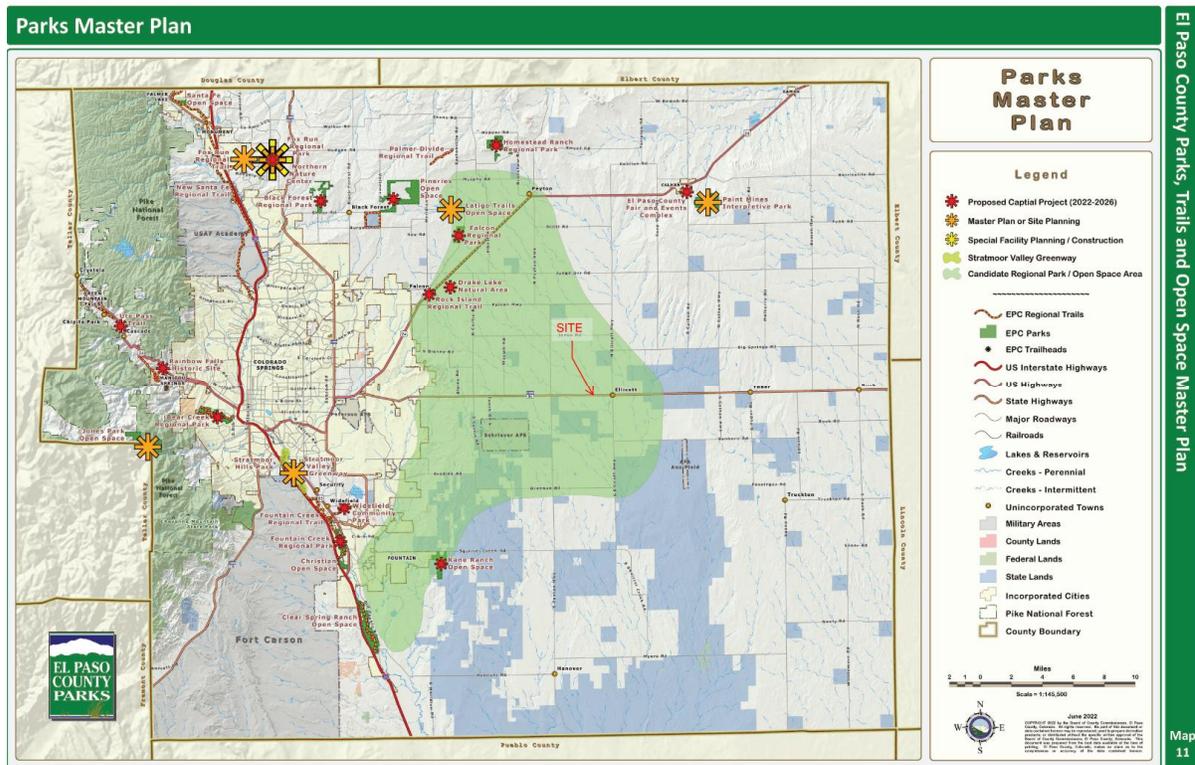
A traffic study has been completed by HDR Engineering, Inc.

- The intersection will operate at LOS A and B under 2024 site plus forecasted traffic conditions during the AM and PM peak periods, respectively. Assuming the connections at both New Log Road and Springs Road are provided, there are no improvements recommended at this intersection as part of this TIS.
- Intersections adjacent to the development on SH 94 will operate at LOS C or better for all scenarios analyzed in this TIA. Therefore, the infrastructure that is anticipated to be in place by the time Filing 3 and Filing 4 are developed and occupied will have the capacity to handle the generated traffic. No improvements are needed for the addition of Filing 4 to the Mayberry Communities development. Intersection LOS and delay results are presented in Table 7 below.

Table 7: Level of Service Summary

Intersection	2024 Existing		2024 Background + Filings 1,2 & ,3		2024 Background + Filing 4	
	AM	PM	AM	PM	AM	PM
Highest delay minor street approach is reported for all unsignalized intersections.						
Peyton Highway and SH 94	B (14.1)	B (13.5)	C (15.8)	C (18.7)	C (16.7)	C (19.8)
New Log Road and SH 94	-	-	B (14.5)	B (15.4)	C (15.2)	C (16.4)
Springs Road and SH 94	-	-	A (9.2)	B (10.1)	A (9.2)	B (10.2)
Ellicott Highway and SH 94	C (16.0)	C (15.5)	C (16.7)	C (16.4)	C (16.9)	C (16.5)

Parks Master Plan



The site can is located in the “Candidate for Regional Park/Open Space Areas”.

The Developer of the Mayberry Communities Sketch Plan Amendment has the intention to incorporate Filing No. 4 with trails for connectivity to parks throughout the Proposed Mayberry Communities Sketch Plan Amendment.

Connectivity throughout said sketch plan will help with the work live play aspect allowing individuals to live and work within 5-minute walk.

The proposed Sketch Plan Amendment, to be recorded, incorporates the goals and objectives of the El Paso County Parks Master Plan.

Goal 1.B to provide and support large community events and provide visitor destinations and experiences between parks within the Sketch Plan Amendment, to be recorded.

Goal 2.A to provide regional parks, recreation areas, trails and open space

Goal 2.B to continue participation in development review for long range planning within the El Paso County development services, transportation and public park needs to anticipate future growth.

Goal 3.A to refine the definition of active trails between residential and commercial uses.

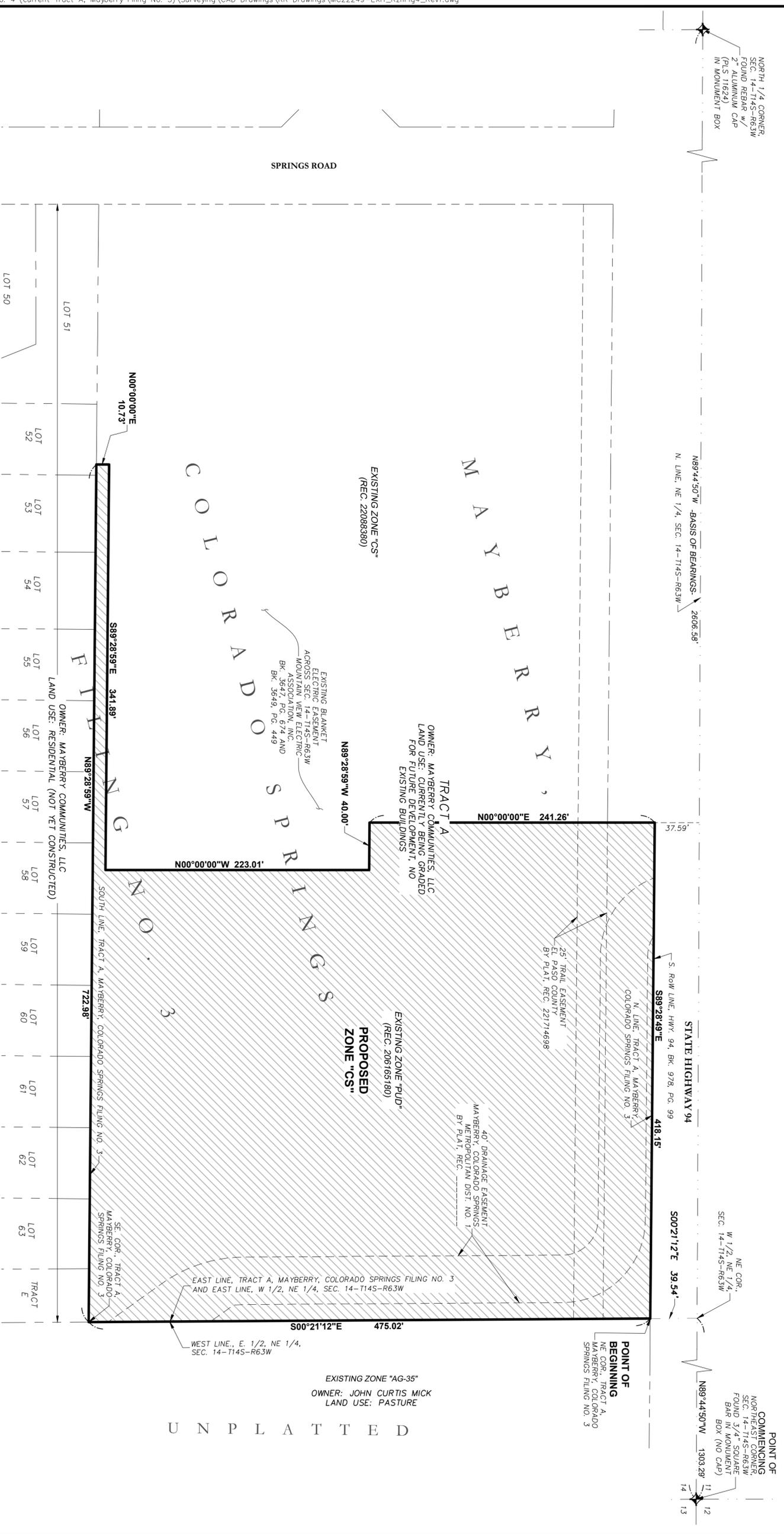
Regional Trails

Goal 1.A a regional trail is proposed along the State Highway 94 corridor, Mayberry Communities Sketch Plan Amendment, to be approved, acknowledges the proposed regional trail system and has incorporated an east/west trail within the community that ties into the adjacent proposed trail easement.

Additional Park and Open Space items are to be provided on the Proposed Mayberry Communities Sketch Plan Amendment (SKP-05-005).

REZONING EXHIBIT

REZONING AREA - Part of Tract A, MAYBERRY, COLORADO SPRINGS FILING NO. 3
 In the Northeast Quarter of Section 14-T14S-R63W of the 6th P.M. | County of El Paso, State of Colorado



DESCRIPTION OF LAND TO BE REZONED

A Parcel of land for the purpose of rezoning, being part of Tract A, MAYBERRY, COLORADO SPRINGS FILING NO. 3, a subdivision of land in the North-Half of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian, in the County of El Paso, State of Colorado, the plat of said subdivision recorded Number _____ in the Office of the Clerk and Recorder of El Paso County, Colorado as Reception _____ said Parcel more particularly described as follows:

Commencing at the Northeast corner of said Section 14, monumented by a found 3/4 inch square bar with no cap in a monument box, from whence the North Quarter-corner of said Section 14, monumented by a found rebar with a 2 inch aluminum cap marked "PLS 11624" in a monument box bears North 89° 44' 50" West a distance of 2606.58 feet as shown on said plat; being the North line of the Northeast Quarter of said Section 14 and all bearings herein are relative thereto; thence North 89° 44' 50" West, 1303.29 feet on said North line to the Northeast corner of the West-Half of said Northeast Quarter; said corner also being the intersection of the northerly extension of the East line of said Tract A with said North line; thence South 00° 21' 12" East, 39.54 feet on the East line of said West-Half to the Northeast corner of said Tract A, also being a point on the South Right-of-Way line of State Highway 94 established by the Right-of-Way deed recorded November 8, 1939 as Reception No. 621491 in Book 978 at Page 99 in said Clerk and Recorder's Office; said corner being the POINT OF BEGINNING of the Parcel of land herein described; Thence continuing South 00° 21' 12" East, 475.02 feet on the East line of said Tract A, being coterminous with the East line of said West-Half, to the Southeast corner of said Tract A; Thence North 89° 28' 59" West, 722.98 feet on the South line of said Tract A; Thence departing said South line North 00° 00' 00" East, 10.73 feet; Thence South 89° 28' 59" East, 341.89 feet; Thence North 00° 00' 00" West, 223.01 feet; Thence North 89° 28' 59" West, 40.00 feet; Thence North 00° 00' 00" East, 241.26 feet to a corner on the North line of said Tract A lying on said South Right-of-Way line; Thence South 89° 28' 49" East, 418.15 feet on the North line of said Tract A, being coterminous with said South Right-of-Way line, to the POINT OF BEGINNING, said Parcel containing 193,628 square feet or 4.445 acres.

LEGEND

BK.	Book
Pg.	Page
REC.	Reception Number
Row	Right-of-Way

NOTE
 THIS MAP IS MEANT TO DEPICT THE ACCOMPANYING DESCRIPTION AND IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.

OWNER
 Tract A,
 MAYBERRY, COLORADO SPRINGS FILING NO. 3
 Mayberry Communities, LLC
 3296 Divine Heights #208
 Colorado Springs, CO 80922

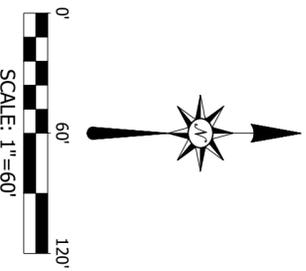
PETITIONER
 Mayberry Communities, LLC / John Mick
 3296 Divine Heights #208
 Colorado Springs, CO 80922

PREPARER
 R&R Engineers-Surveyors, Inc. / Darrell Delap
 1635 W. 13th Avenue, Suite 310
 Denver, CO 80204

PCD FILE NO. CS233

REZONING EXHIBIT

Part of Tract A, MAYBERRY, COLORADO SPRINGS FILING NO. 3 and
 County of El Paso (Unincorporated)
 State of Colorado



Kevin J. Kucharczyk, P.L.S.
 Colorado Reg. No. 34591
 For and on behalf of
 R&R Engineers-Surveyors, Inc.

This document prepared by:

R&R ENGINEERS-SURVEYORS, INC.
 1635 W. 13TH AVENUE, SUITE 310
 DENVER, COLORADO 80204
 303-753-6730
 www.rrengineers.com

REVISIONS

8/28/2023	Revised Per. County Comments	File: MC22249-EXH_12mFig4
		Orig. Issue Date: 3/20/2023
		Drawn By: DD
		Checked By: KJK
		R&R Project No. MC22249

Mayberry Filing No. 4

Final Plat

Letter of Intent May 24, 2023

APPLICANT-OWNER/CONSULTANT INFORMATION:

OWNER/APPLICANT

MAYBERRY COMMUNITIES, LLC
428 GARDEN PARK AVENUE,
MAYBERRY, CO 80808
scottsouders@mayberrycoloradosprings.com
719-922-2181

PLANNING SUPPORT

KIMLEY-HORN AND ASSOCIATES, INC.
2 NORTH NEVADA AVENUE, SUITE 900
COLORADO SPRINGS, CO 80903
Larry.salazar@kimley-horn.com
719-284-7829

ENGINEERING/SURVEYING

R&R ENGINEERING AND SURVEYORS, INC.
1635 WEST 13TH AVENUE, SUITE 310
DENVER, CO 80204
cdayton@rrengineers.com
720-390-5513

LOCATION, ACREAGE, PARCEL ID INFO, & ZONING

The application for a Final Plat. Said application will be processed at the same time of the rezoning of parcel no. 3414102015. Overall Site includes Parcel No(s). 3414102013, 3414102014 and 3414102015, as depicted below. The proposed rezoning is located east of the southeast corner of intersections of State Highway 94 (SH 94) and Proposed Springs Road (see vicinity map insert and map exhibit for details). The total acreage of the proposed rezone is ±4.28. (Currently Zoned: Planned Unit Development [PUD]).



REQUEST

Mayberry Communities LLC (“Applicant”) Requests approval for eight (8) lots as part of Mayberry Filing No. 4.

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	R.O.W.
USE	CS	ROAD							
OWNERSHIP	PRIVATE	EPC							
AC+/-	1.085	1.087	1.258	1.293	0.947	0.939	0.939	0.927	1.300

The application to Rezone 4.28 acres from the PUD zone to the Commercial Services zoning district (CS) will be processed concurrently with this process. The application includes the following request:

- Approval to rezone Parcel No. 3414102015 to CS to match adjacent Parcels, 3414102013 and 3414102014.
- Approval of subdivision and replating of parcels, 3414102013, 3414102014 and 3414102015.

The process of the rezone is projected to run concurrently with the Final Plat/Replat of said parcels identified as Tract A, Mayberry Colorado Filing No.2, unplatted parcel, and a portion of Tract D as platted in Mayberry Colorado Springs Filing No. 2 to later be replated for a total of eight (8) commercial lots.

Associated with the application the transportation improvements including public and private roadway improvement, pedestrian facilities, utility infrastructure. The public subdivision improvements are to be owned/maintained by Mayberry Metropolitan District No. 2 and Mayberry Metropolitan District No. 3 in partnership with Ellicott Utilities Company for water and wastewater services.

ZONE DISTRICT COMPLIANCE

The final plat is to be in compliance with the CS zone. Future development of Right of Way will conform to the engineering criteria requirements. Conformance with zoning requirements will be largely demonstrated in phases of development for lots and tracts within this final plat area. All proposed Lots are designed to meet the bulk, density, and dimensional requirements of the respective underlying zones. They are able to meet the required landscaping, buffering and screening requirements for the proposed uses, and buffering and screening against adjacent and differing uses per Section 6.2.2 of the Code.

REVIEW/APPROVAL CRITERIA & JUSTIFICATION

- ***The proposed subdivision is in conformance with the goals, objectives, and policies of the Master Plan; (see treatment of review criterion below)***

The applicant requests approval of the rezoning based on findings of compliance with the following Goals:

- Goal 1.1 - Ensure compatibility with established character and infrastructure capacity.
- Goal 1.3 - Encourage a range of development types to support a variety of land uses.

The proposed Rezone from the PUD district to the CS district provides opportunity for the developer to include additional commercial uses in this area, designating a CS zoned district creates a buffer from the residential use PUD development to the south from the State Highway 94 corridor.

The proposed CS district and future plans to subdivide the parcels into eight (8) commercial lots allow the developer to maintain compliance with the previously approved Ellicott Town Center (SKP-05-005), soon to be amended to the proposed "Mayberry Communities Sketch Plan Amendment".

In addition, the subject parcels directly abut State Highway 94 which is a busy corridor with vehicles traveling at high rates of speed creating above average noise. Providing commercial development directly adjacent to this expressway will act as a transition from this corridor into the Mayberry development.

Furthermore, this commercial development, with any buffering and code compliant landscaping, will buffer further and planned residential developments in the surrounding area that are located within the Suburban and Rural placetypes to the east, west, and south.

PLACETYPES	LAND USES																			
	Agriculture	Family/Homestead	Estate	Single-Family Detached	Single-Family Attached	Multifamily	Mixed Use	Restaurant	Commercial Retail	Commercial Service	Tourism Commercial	Entertainment and Arts	Light Industrial/Business Park	Heavy Industrial	Military Operation	Parks and Open Space	Natural and Paleontological	Institutional	Utility	
Rural	●	●	○																●	○
Large-Lot	○			●				○	○										○	
Suburban				●	○	○		○	○										○	○
Urban Residential				●	●	●	○	○	○			○							○	○
Rural Center				●	○	○		●	●	●									●	
Regional Center				○	●	●	○	●	●	●		●	○						○	
Employment Center							○	○	○			●	●	●						
Regional Open Space																●	●			
Mountain Interface			○					○	○	○	○					●	●	○		
Military				○	○	●		○	○	○		○	●	●	○				○	○
Utility																○				●

● **Primary Land Use:** More prominent and play a pivotal role in characterizing that placetype
 ○ **Supporting Land Use:** Less prevalent and serve to support the primary land use.

Key Areas:

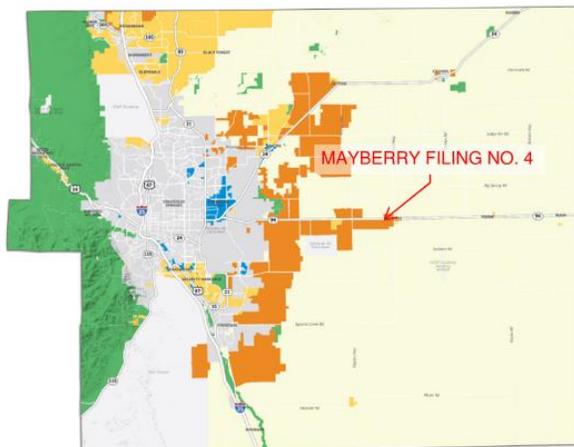


Key Areas

- Military Installations and 2-Mile Notification Zone
- Small Town & Rural Communities
- Tri-Lakes Area
- Potential Area For Annexation
- Forested Area
- Colorado Springs Airport/Peterson Air Force Base
- Enclaves or Near Enclaves
- Fountain Creek Watershed Flood Control & Greenway District
- Uncommon Natural Resources
- Pikes Peak Influence Area

The property is not located within the ten (10) classifications of key areas.

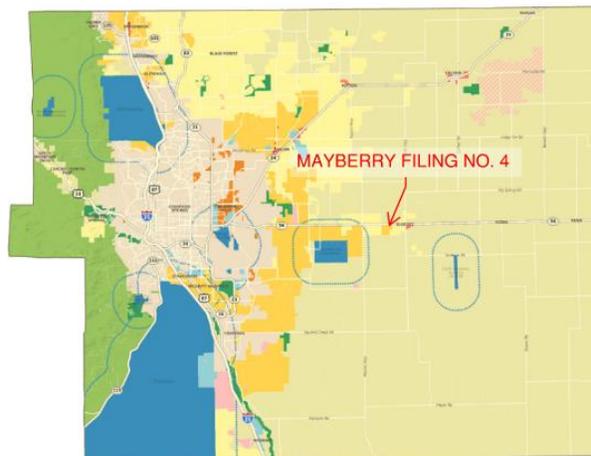
Areas of Change:



Areas of Change

- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed
- New Development
- Transition

Mayberry Filing No 4 Final Plat is located in the area expected for “New Development”. These areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built-out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.



Placetypes

 Military	 Urban Residential	 Regional Open Space
 Rural	 Rural Center	 Mountain Interface
 Large Lot Residential	 Regional Center	 Utility
 Suburban Residential	 Employment Center	 Incorporated Area

Mayberry Filing No. 4 is located within the Suburban Residential type. This land use is designated for Suburban Residential, Traditional Residential neighborhoods with supporting commercial uses at key intersections. The Suburban place type generally supports the proposed development pattern and the support of limited accessory dwelling units as well.

- ***The subdivision is in substantial conformance with the approved Preliminary Plan***

A preliminary plan has not been done for the site.

Water Master Plan Conformance:

The development area is in REGION 4c as identified on the El Paso County Water Master Plan Planning Regions Map and is within the Ellicott Utilities Company (EUC) Service Area. Water supplies in Region 4c, and specifically from EUC, should be sufficient to meet the current development demand; however, additional resources will be required to meet the full projected development demand within the Region by the 2060 target build out date. Additional water resources are planned through regional collaboration with partner and/or neighboring water providers.

The total water demand for the proposed subdivision is calculated to be 3.03 af/yr. (see Table 2). This water demand is based upon the following:

- A total of 2.35 af/yr water demand for in-house uses for the 8 lots (0.294 af/lot/yr) based on Table 2 of the Water Supply Report provided by Respec.
- A total of 0.68 af/yr water demand for outside uses for the 8 lots (0.085 af/lot/yr), based on a unit water demand of 0.0566 af/1000 sq. ft. of landscaping with a maximum irrigated landscaping of 1500 sq. ft. per lot.

These water uses result in a total water demand per lot of 0.739 af/yr.

Wastewater from the domestic uses will be discharge after treatment though the Ellicott Utilities WWTP which has be designed and constructed in compliance with the requirements of the El Paso County Department of Health and Environment (EPCDHE) and the Colorado Department of Health & Environment. The estimated return flow from the WWTP is 2.23 af/yr which is 95% of the domestic water requirement and we estimate that the return flows from landscape irrigation will be 0.14 af/yr which is 20% of the landscape water requirements, for a total return flow of 2.37 af/yr

Your El Paso Master Plan Conformance:

The Proposed Final Plats generally conforms to the goals conformance with the goals, objectives, and policies of the Your El Paso Master Plan.

- ***Goal 1.1 - Ensure compatibility with established character and infrastructure capacity.***

The BOCC made findings of compatibility with the established character of the area by their approval (Resolution 06-18) of the Sketch Plan for Ellicott Town Center (SKP-05-005) on 03/01/2006. The site plans are in conformance with framework of the sketch plan. The submittals demonstrate infrastructure capacity for public drainage, roadways, utilities, and other public services (parks, schools, and fire and police protection). Public improvements are proposed that are roughly proportionate to the impact to or demands for services and/or infrastructure generated by the planned uses within the final plat area.

According to the SKP-05-005 Staff Report to the BOCC, the overall sketch plan would consist of approximately 550.6 acres and proposed for urban development of residential units, approximately 32 acres of commercial use and other mixed uses.

Urban services which include, but not necessarily limited to water, wastewater, electric service, natural gas service, fire protection, roadway and transportation, and drainage and stormwater management services are currently available. No issues have been raised with previous Zone Change, Final Plat or the Final Plat applications.

Water/sewer services will be provided service by Ellicott Utilities Company. Private stormwater facilities will be provided by the developer and managed by the Mayberry Metropolitan District No. 1, public offsite and regional facilities and management by El Paso County Road/Bridge respectively; Electric will be provided by Mountain View Electric Company and natural gas service will be provided by Black Hills Energy. Fire protection will be provided by the Ellicott Fire Protection District. Police and related public safety services will be provided by the El Paso County Sheriff. Compulsory education services are provided by Ellicott School District No. 22.

The approved Sketch Plan provide the basis for the private park, recreation, and open spaces associated with Ellicott Town Center. These amenities will be managed by the Metropolitan District. The development of the public parks, open space, add to the recreation services provided by El Paso County, City of

Colorado Springs, and Mayberry Metropolitan District via existing network outside of this project area.

- ***Goal 1.3 - Encourage a range of development types to support a variety of land uses.***

The existing plans and previous final plats will implement the planned mixed commercial, single, and multifamily residential used defined with the Mayberry Communities Sketch Plan in This commercial and adjacent PUD use district.

- ***Goal 1.4 - Continue to encourage policies that ensure “development pays for itself”.***

The developer is bearing the costs of providing necessary improvements to support the proposed development. These applications continue to provide complete financial assurance estimate for required improvements and construction activities and will be bound by the terms and conditions of a Subdivision Improvements Agreement. The developer will also be responsible for the payment of all subdivision exactions and road impact fees.

- ***Goal 2.3 - Locate attainable housing that provides convenient access to goods, services, and employment.***

The existing and approved land use mix within the adjacent area includes residential (single-family attached, single-family detached, and multifamily) land uses, together with commercial and retail uses, service oriented, light, and heavy industrial land uses along State Highway 94. The commercial and retail uses will help complete the desired mixed uses to serve the residents.

The proposed commercial lots are also conveniently located near a major transportation thoroughfare (SH 94) which can connect them to other employment centers, commercial/retail corridors and nodes throughout the El Paso County region.

- **The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;**

A final drainage, grading and erosion control plan, water/wastewater resource reports, traffic impact analysis, and the Final Plat have been provided which meet the applicable plan/report development requirements of the LDC, ECM, and DCM, subject to review and acceptance by the County. The application is consistent with the previously approved plans.

- **A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;**

A commitment to provide water service has been provided by Ellicott Utilities Company which has adequate water resources to serve the proposed development. Findings of sufficiency were made along with quitclaim deed of water provided per recordation number 204053280. The district has also provided updated letters of commitment.

- **A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;**

The subdivision will connect into an existing public sewage disposal system what has been installed together with other public improvements associated with previously approved Ellicott Town Center (SKP-05-005), soon to be amended to the proposed "Mayberry Communities Sketch Plan Amendment" and its many development phases and filings. The existing system complies with state and local laws and regulations, statutory requirements, and the requirements of Chapter 8 of the County Land Development Code.

All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions.

[C.R.S. § 30-28-133(6)(c)];

The Geology/Soils report prepared by CTL Thompson, dated March 13, 2023, based on the results of this investigation, the near surface materials are predominantly granular and will generally provide good support for spread footing foundations, slabs-on-grade, and pavements. In the event expansive clay soils or claystone bedrock are encountered following grading or are present within 4 feet of proposed foundations and floor slabs, sub-excavation and reworking of these materials will likely be necessary.

All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed application is compatible with such conditions or will achieve compatibility through compliance with recommendations of corresponding reports and plans or by conditions of approval by the BOCC.

- **Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;**

Adequate drainage improvements have been provided by the subdivision design, including but not limited to, stormwater, detention, and/or water quality control facilities, all of which meet stormwater requirements established by the state in addition to meeting the requirements of the County Code and ECM. Detention facilities will be designated within each Lot's Site Development Plan. Ownership and maintenance of all drainage facilities and improvements shall be provided by the Mayberry Metropolitan District No. 2 and Mayberry Metropolitan District No. 3.

- **Legal and physical access is or will be provided to all parcels/Lots by public rights- of-way or recorded easement, acceptable to the County in compliance**

with this Code and the ECM;

Legal and physical access is and will be provided by planned public and private rights-of-way. The public road with the appropriate public access easement will be recorded with the final plat. The private road tract and improvements will be owned and maintained by the respective Mayberry Metropolitan Districts. All access planned is legal and in accordance with the provisions and allowances in the LDC and ECM.

Access to SH94 is from connections to Springs Road located at the westernmost boundary of the property.

- **Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;**

Necessary services which include, police and fire protection, recreation, utilities, open space and transportation system, are presently available to serve the development as supported by the utility and public service commitments provided in support of the development application.

- **The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;**

The subdivision provides evidence via commitment letters from Ellicott Fire Protection District for emergency and fire service and Ellicott Utilities Districts for water for fire suppression as well as site plan layout and design of access and utilities demonstrate show that the proposed methods for fire protection comply with Chapter 6 of the County Code.

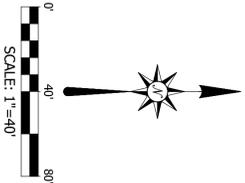
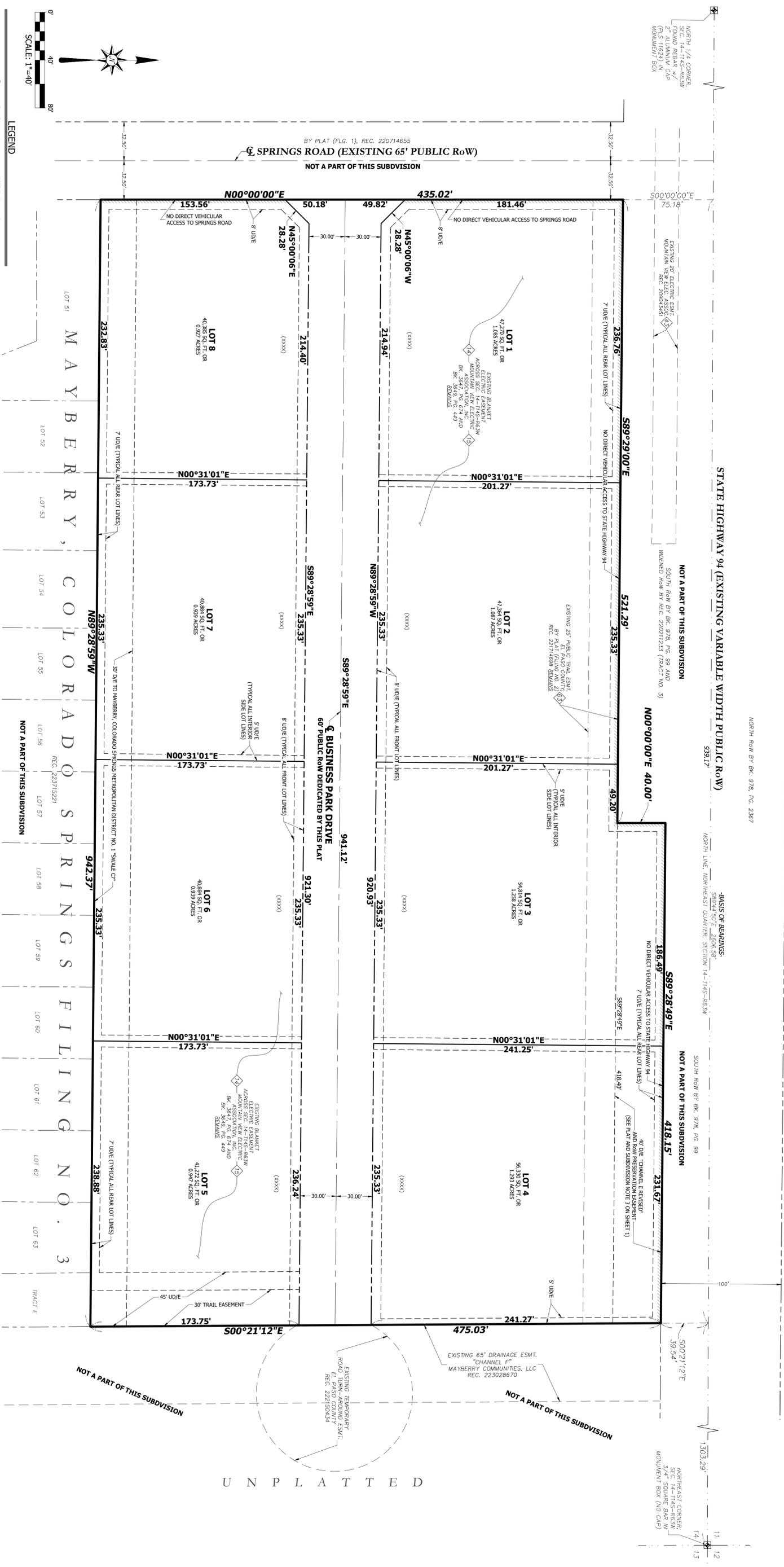
- **Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;**

Off-site improvements including improvements at the State Highway 94 and Springs Road intersection and the extension of Springs Road South adjacent to the property boundary and stormwater detention facilities have been included in the associated construction documents and financial assurances with Filing 4 and reflected in the previously reviewed applications.

Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;

Bridge, Drainage, Park, School, and Road Impact Fees will be paid at the time of plat recordation and building permit issuance (Road Impact only).

**Final Plat of
MAYBERRY, COLORADO SPRINGS FILING NO. 4**
Being a replat of Tract A, MAYBERRY, COLORADO SPRINGS FILING NO. 3
Lying the Northeast Quarter of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian
County of El Paso (Unincorporated), State of Colorado
AS HEREBY REPLATTED



LEGEND

- Set Survey Monument - 5/8" Rebar with Yellow Plastic Cap Stamped "PLS 38567"
- Found Survey Monument, As Noted
- Section Corner in Monument Box
- Utility and Drainage Easement dedicated by this plat
- Drainage Easement to Mayberry, Colorado Springs Metropolitan District No. 1 dedicated by this plat
- Square Feet
- Address (See Plat and Subdivision Note 9 on sheet 1)
- REC. (XXXX)
- Subdivision Exterior Boundary Line
- Right-of-Way Line dedicated by this plat
- Lot Line established by this plat
- Easement Line dedicated by this plat
- Center Line
- Existing Paved Lot Line
- Existing Right-of-Way Line
- Section Line or Quarter-Section Line
- Existing Easement Line
- No Direct Vehicular Access

USE / AREA TABLE			
Planned Use	Planned Ownership	Total Square Feet	Total Acres
Lot(s) (9)	Commercial	369,204	8.48
Right-of-Way	Public Road / Street	56,867	1.30
Totals	El Paso County	426,071	9.78

County Attorney

Kenneth R. Hodges, County Attorney
719-520-6485
Centennial Hall
200 S. Cascade, Suite 150
Colorado Springs, CO 80903
www.ElPasoCo.com

Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

November 21, 2023

SF-23-17 Mayberry, Colorado Springs Filing No. 4

Reviewed by: Lori Seago, Senior Assistant County Attorney
April Willie, Paralegal

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a Final Plat proposal by Mayberry Communities, LLC (“Applicant”), to subdivide an approximately 9.78 acre lot into 8 industrial lots. The property is zoned CS (Commercial Service).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the Applicant estimates its annual water needs to serve this subdivision at 3.03 acre-feet/year for 8 lots. The Applicant estimates indoor use at 0.294 acre-feet per lot, with an additional estimated demand of 0.68 acre-feet for irrigation of 0.28 acres (0.085 acre-feet/lot/year), which results in a total annual water demand of 0.379 acre-feet per lot, or a total demand of 3.03 acre-feet for Mayberry, Colorado Springs Filing No. 4. Based on these figures, the Applicant must provide a supply of 909 acre-feet of water (3.03 acre-feet/year x 300 years) to meet the County’s 300-year water supply requirement for the subdivision.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Ellicott Utilities Company (“EUC” or “Company”). As detailed in the *Water Resources Report* (“Report”), EUC has 50.98 acre-feet/year of water available through Colorado Ground Water Commission Determination No. 598-BD and 77.90 acre-feet/year of water available through the Tipton Well, a well owned by Cherokee Water, LLC in which EUC owns an interest. This provides a total of 128.88 acre-feet per year of water available. The EUC has already committed 86.69 acre-feet

ASSISTANT COUNTY ATTORNEYS

to Mayberry 1, 2, & 3 leaving 42.19 acre-feet/year remaining for Mayberry, Colorado Springs Filing No. 4.

4. The Ellicott Utilities Company, LLC provided a letter of commitment dated April 12, 2023 for Mayberry, Colorado Springs Filing No. 4, in which the District committed to providing water service for the 8 industrial lots and associated landscaping in an annual amount of 4.96 acre-feet per year.¹

State Engineer's Office Opinion

5. In a letter dated June 28, 2023, the State Engineer's Office reviewed the application to subdivide the 9.78 +/- acres into eight commercial lots. The State Engineer stated that "the Company owns and controls water rights associated with Determination of Water Right Nos. 598-BD and 599-13D, [and] an interest in the Tipton Well and the Benton Well. For this subdivision, only the water rights from 598-BD and the Tipton well will be utilized. The State Engineer confirmed the water supply of 50.98 acre-feet/year from Determination No. 598-BD is available, as well as 77.9 acre-feet/year from the Tipton Well (adjudicated through Determination No. 91GW01). The State Engineer further stated that ". . . it is or opinion, pursuant to CRS 30-28-136(1)(h)(II) that the anticipated water supply can be provided without causing material injury to decreed water."

Recommended Findings

6. Quantity and Dependability. Applicant's water demand for Mayberry, Colorado Springs Filing No. 4 is 3.03 acre-feet per year for a total demand of 909 acre-feet for the subdivision for 300 years, to be supplied by Ellicott Utilities Company. **Based on the District's available water supply of approximately 42.19 annual acre-feet, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Mayberry, Colorado Springs Filing No. 4.**

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Code must be satisfied. Section 8.4.7.B.10.g. of the Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary*, the *Water Resources Report* dated October 20, 2023, the *Ellicott Utilities Company, LLC* letter dated April 12, 2023, and the *State Engineer Office's Opinion* dated June 28, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below***

¹ The water demand remains 3.03 acre-feet per year. The number committed by Ellicott Utilities Company is in excess.

requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.

REQUIREMENTS:

A. Applicant and all future owners of lots within this filing shall be advised of and comply with the conditions, rules, regulations, and specifications set by the Company.

cc: Ryan Howser, Project Manager, Planner

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONING) TO CS
MAYBERRY FILING NO. 4 (CS233)

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on February 15, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on March 14, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters, and issues were submitted and reviewed, and that all interested persons were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.

6. That the proposed land use will be compatible with existing and permitted land uses in the area.
7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code (as amended) in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Mayberry Communities, LLC to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district ;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

2. Specific uses of the site shall be limited to those included in the traffic impact study provided with the Map Amendment (Rezoning) and Final Plat applications (PCD File Nos. CS233 & SF2317). The applicant shall be required to provide a revised traffic impact study to be submitted and approved prior to initiation of any uses beyond those included in the traffic impact study.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 14th day of March 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

A Tract of land for the purpose of rezoning, being part of Tract C and part of Tract D, MAYBERRY, COLORADO SPRINGS

FILING NO. 2, a subdivision of land in the North-Half of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian, in the County of El Paso, State of Colorado, the plat of said subdivision recorded March 10, 2021 in the Office of the Clerk of El Paso County, Colorado as Reception Number 221714698, said Tract more particularly described as follows:

Commencing at the North Quarter-corner of said Section 14, monumented by a found rebar with a 2 inch cap marked "PLS 11624" in a monument box, from whence the Northeast corner of said Section 14 monumented by a found 3/4 inch square bar with no cap in a monument box bears South 89° 44' 50" East a distance of 2606.58 feet as shown on said plat, being the North line of the Northeast Quarter of said Section 14 and all bearings herein are relative thereto; thence South 89° 44' 50" East 1303.29 feet on said North line to the Northeast corner of the West-Half of said Northeast Quarter; thence South 00° 21' 12" East 39.54 feet on the East line of said West-Half to the Northeast corner of said Tract D and the POINT OF BEGINNING of the Tract of land herein described;

Thence continuing South 00° 21' 12" East 475.02 feet on the East line of said Tract D; Thence departing said East line North 89° 28' 59" West 722.98 feet to a corner on the southerly line of said Tract A, being common with a corner on the northerly line of said Tract C; Thence North 00° 00' 00" East 10.73 feet on said southerly line, being coterminous with said northerly line of Tract C, to a corner common to said Tracts A and C; Thence South 89° 28' 59" East 341.89 feet continuing on said southerly line, a portion of which being coterminous with said northerly line of Tract C, to the Southeast corner of said Tract A; Thence on the easterly line segments of said Tract A, being coterminous with the westerly line segments of said Tract D, the following three (3) courses and distances:

1) North 00° 00' 00" West 223.01 feet;

2) Thence North 89° 28' 59" West 40.00 feet;

3) Thence North 00° 00' 00" East 241.26 feet to the Northwest corner of said Tract D;

Thence South 89° 28' 49" East 418.15 feet on the North line of said Tract D to the POINT OF BEGINNING, said Tract containing 193,628 square feet or 4.445 acres; said Tract above described also being part of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 4

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF FINAL PLAT
MAYBERRY FILING NO. 4 (SF2317)

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Mayberry Filing No. 4 Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on February 15, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on March 14, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved preliminary plan;
3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;

9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Mayberry Filing No. 4 Subdivision;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated November 21, 2023, as provided by the County Attorney's Office.
9. The applicant shall address all outstanding engineering comments and receive acceptance of the Traffic Impact Study and approval of the Construction Documents by the ECM Administrator prior to issuance of a construction permit.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held and a Construction Permit is issued by the appropriate El Paso County staff.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 14th day of March 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

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