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RESOLUTION NO. 24-188

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

**APPROVAL OF MAP AMENDMENT (REZONING) TO CS
MAYBERRY FILING NO. 2A (CS234)**

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 and depicted in Exhibit B, 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 April 18, 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 May 9, 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. CS234 & VR2323).

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 9th day of May 2024 at Colorado Springs, Colorado.

ATTEST:

By: _____
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Carly J. De
Vice Chair

EXHIBIT A

A Tract of land for the purpose of rezoning, being part of Tract C, MAYBERRY, COLORADO SPRINGS FILING NO. 3, a subdivision of land in the North-Half of said 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 November 15, 2023 in the Office of the Clerk of El Paso County, Colorado as Reception Number 223715221, said Tract more particularly described as follows:

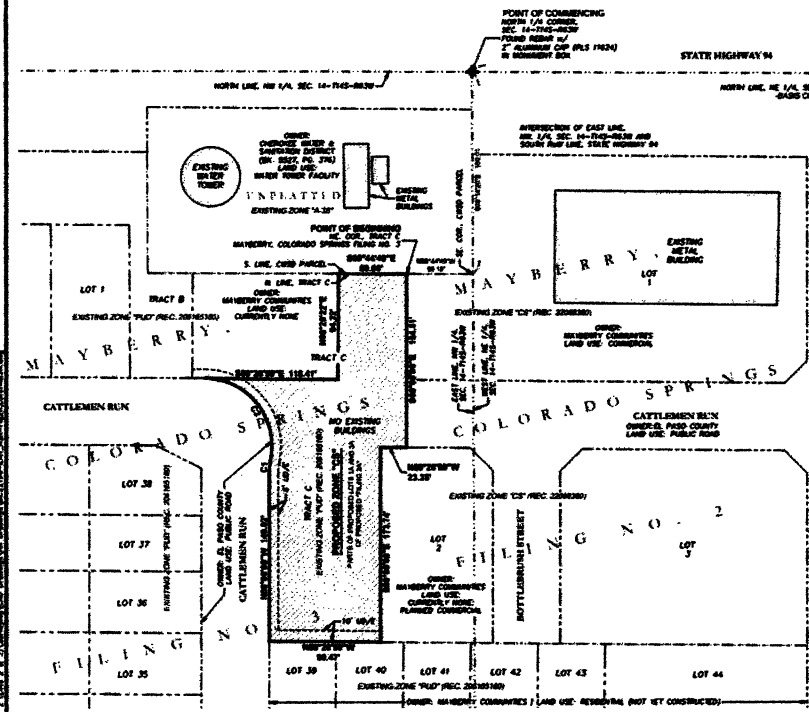
Commencing at the North Quarter-corner of said Section 14, monumented by a found rebar with a 2 inch cap marked "PLS 11624" in a monument box, from whence the Northeast corner of said Section 14 monumented by a found 3/4 inch square bar with no cap in a monument box bears South 89° 44' 50" East a distance of 2606.58 feet along the North line of the Northeast Quarter of said Section 14 as shown on said plat, and all bearings herein are relative thereto; thence South 00° 14' 20" East 180.01 feet on the West line of said Northeast Quarter, also being the East line of a parcel of land conveyed to Cherokee Water and Sanitation District in the quit claim deed recorded in Book 5527 at Page 376 in said Clerk and Recorder's Office (hereinafter referred to as the "CWSD Parcel"), to the Southeast corner of said CWSD Parcel; thence North 89° 44' 49" West, 59.18 feet on the South line of said CWSD Parcel being coterminous with a portion of the North line of said Tract C, to the Northeast corner of said Tract C and being the POINT OF BEGINNING of the Tract of land herein described; Thence South 00° 00' 00" East, 154.51 feet on the easterly line of said Tract C; Thence North 89° 28' 59" West, 23.35 feet continuing on the easterly line of said Tract C; Thence South 00° 00' 00" East, 173.74 feet continuing on the easterly line of said Tract C to the Southeast corner of said Tract C; Thence North 89° 28' 59" West, 99.47 feet on the South line of said Tract C to the Southwest corner of said Tract C; Thence North 00° 00' 00" West, 149.92 feet on the westerly line of said Tract C to the beginning of a tangent curve to the right and concave easterly; Thence northerly on said curve an arc length of 12.25 feet continuing on said westerly line, said curve having a radius of 60.00 feet, a chord bearing of North 05° 51' 01" East, a chord distance of 12.23 feet and an interior angle of 11° 42' 02", to the beginning of a reverse curve to the left and concave southwesterly; Thence northerly and westerly on said curve an arc length of 105.96 feet continuing on said westerly line, said curve having a radius of 60.00 feet, a chord bearing of North 38° 53' 29" West, a chord distance of 92.72 feet and an interior angle of 101° 11' 01", to a point of cusp; Thence departing said westerly line South 89° 28' 59" East, 118.41 feet; Thence North 00° 20' 22" East, 94.22 feet to the North line of said Tract C, being coterminous with the South line of said CWSD Parcel; Thence South 89° 44' 49" East, 60.00 feet on said North line to the POINT OF BEGINNING, said Tract containing 30,994 square feet or 0.712 acres.

The above described Tract also being parts of proposed Lots 1A and 3A of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 2A.

EXHIBIT B

REZONING EXHIBIT

REZONING AREA - Part of Tract C, MAYBERRY, COLORADO SPRINGS FILING NO. 3
(Parts of Proposed Lots 1A and 3A of Proposed MAYBERRY, COLORADO SPRINGS FILING NO. 2A)
In the Northwest Quarter of Section 14-T14S-R63W of the 6th P.M. | County of El Paso, State of Colorado



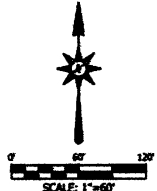
REZONING DESCRIPTION
(Currently Part of existing Tract C, MAYBERRY, COLORADO SPRINGS FILING NO. 3)
(Parts of Proposed Lots 1A and 3A of Proposed MAYBERRY, COLORADO SPRINGS FILING NO. 2A)

A Tract of land for the purpose of rezoning, being part of Tract C, MAYBERRY, COLORADO SPRINGS FILING NO. 3, a subdivision of land in the North-Half of said 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 November 15, 2023 in the Office of the Clerk of El Paso County, Colorado as Recession Number 223715221, 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 2606.38 feet along the North line of the Northeast Quarter of said Section 14 as shown on said plat, and all bearings herein are relative thereto; thence South 09° 14' 20" East 188.01 feet on the West line of said Northeast Quarter, also being the East line of a parcel of land conveyed to Cherokee Water and Sanitation District in the quit claim deed recorded in Book 5527 at Page 276 in said Clerk and Recorder's Office (hereinafter referred to as the "CHSD Parcel"), to the Southeast corner of said CHSD Parcel; thence North 89° 44' 49" West, 98.18 feet on the South line of said CHSD Parcel being coterminal with a portion of the North line of said Tract C, to the Northeast corner of said Tract C and being the POINT OF BEGINNING of the Tract of land herein described; thence South 89° 00' 00" East, 134.51 feet on the easterly line of said Tract C; thence North 89° 28' 53" West, 23.35 feet continuing on the easterly line of said Tract C; thence South 89° 00' 00" East, 173.24 feet continuing on the easterly line of said Tract C to the Southeast corner of said Tract C; thence North 89° 28' 59" West, 98.47 feet on the South line of said Tract C to the Southwest corner of said Tract C; thence North 89° 00' 00" West, 149.82 feet on the westerly line of said Tract C to the beginning of a tangent curve to the right and concave easterly; thence northerly on said curve an arc length of 12.25 feet continuing on said westerly line, said curve having a radius of 60.00 feet, a chord bearing of North 89° 51' 01" East, a chord distance of 12.23 feet and an interior angle of 11° 42' 02", to the beginning of a reverse curve to the left and concave southeasterly; thence northerly and westerly on said curve an arc length of 305.96 feet continuing on said westerly line, said curve having a radius of 60.00 feet, a chord bearing of North 38° 53' 29" West, a chord distance of 92.72 feet and an interior angle of 101° 11' 01", to a point of curve; thence departing said westerly line South 89° 28' 59" East, 116.41 feet; thence North 09° 20' 22" East, 94.22 feet to the North line of said Tract C, being coterminal with the South line of said CHSD Parcel; thence South 89° 44' 49" West, 60.00 feet on said North line to the POINT OF BEGINNING, said Tract containing 30,894 square feet or 0.712 acres. The above described Tract also being parts of proposed Lots 1A and 3A of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 2A.

CURVE DATA TABLE

Sta	Ls	Δθ	Chd	Chd
C1	82.00	12.25	11°42'02"	N89°51'01"E 12.23
C2	86.00	16.96	101°11'01"	N09°20'22"E 94.22



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

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

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

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

PCD FILE NO. CS234

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

Prepared By	DAVID DELAP
Checked By	JOHN MACK
Date	9/28/2023
Drawn By	DD
Checked By	JM
Project No.	MC21199

REZONING EXHIBIT
Part of Tract C,
MAYBERRY, COLORADO SPRINGS FILING NO. 3
NW 1/4, Sec. 14-T14S-R63W of the 6th P.M.
County of El Paso (Unincorporated)
State of Colorado