

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

Mr. Trowbridge moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. CS234

MAYBERRY FILING NO. 2A CS REZONE

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for approval of a Map Amendment (Rezoning) to amend the El Paso County Zoning Map for property in the unincorporated area of El Paso County as described in Exhibit A and depicted in Exhibit B, 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 April 18, 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;

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 (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 approval of a Map Amendment (Rezoning) to amend the El Paso County Zoning Map for 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. CS2324 & 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 that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

Ms. Offner 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	<u>aye</u> / no / non-voting / recused / absent
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	aye / no / non-voting / recused / <u>absent</u>
Brandy Merriam	<u>aye</u> / no / non-voting / recused / absent
Eric Moraes	aye / no / non-voting / recused / <u>absent</u>
Kara Offner	<u>aye</u> / no / non-voting / recused / absent
Bryce Schuettpeiz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / <u>absent</u>
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 8 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 18th day of April 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
~~Thomas Bailey, Chair~~  
Jay Carlson, 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 \_\_\_\_\_ in the Office of the Clerk of El Paso County, Colorado as Reception Number \_\_\_\_\_, said Tract more particularly described as follows:

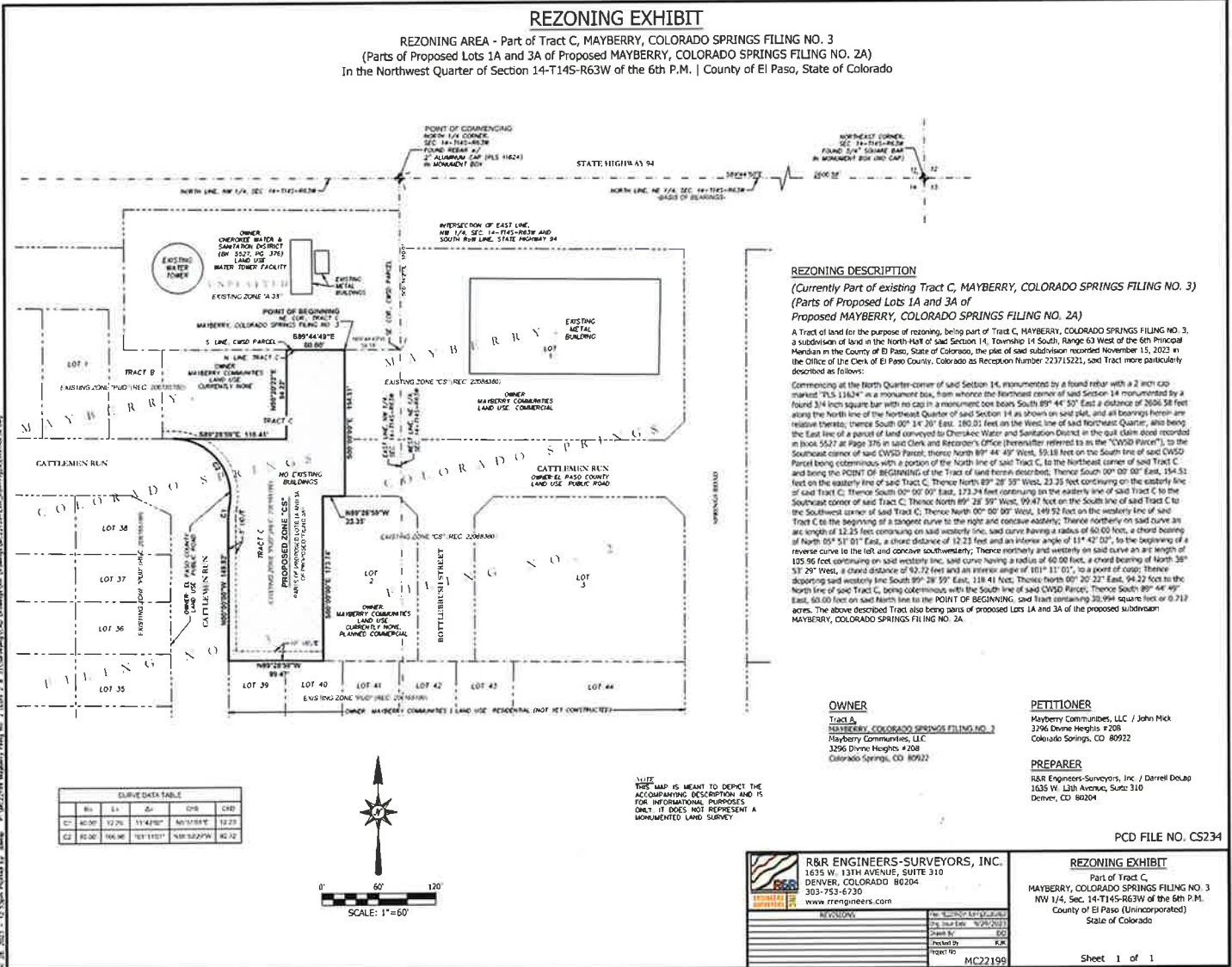
Commencing at the North Quarter-corner of said Section 14, monumented by a found rebar with a 2 inch cap marked "PLS 11624" in a monument box, from whence the Northeast corner of said Section 14 monumented by a found 3/4 inch square bar with no cap in a monument box bears South 89° 44' 50" East a distance 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, 2002 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 "R.S. 11624" in a monument box, from which 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 2636.58 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 280.31 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 on the plat 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 coincident 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, 23.25 feet continuing on the easterly line of said Tract C, thence South 00° 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, 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, 149.52 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 55° 51' 01" East, a chord distance of 12.25 feet and an inflexion 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 105.96 feet continuing on said westerly line, said curve having a radius of 60.00 feet, a chord bearing of North 38° 51' 29" West, a chord distance of 60.72 feet and an inflexion angle of 101° 11' 01"; to a point of curve; 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 coincident with the South line of said CWSD Parcel, thence South 89° 44' 49" East, 60.50 feet on said North line to the POINT OF BEGINNING; and land containing 38,996 square feet or 0.9122 acres. The above described Tract also being parts of proposed Lots 1A and 3A of the proposed subdivision MAYBERRY, COLORADO SPRINGS FILING NO. 2A.

**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 DeJou  
1635 W. 13th Avenue, Suite 310  
Denver, CO 80204

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

PCD FILE NO. CS234

<b>R&amp;R ENGINEERS-SURVEYORS, INC.</b> 1635 W. 13TH AVENUE, SUITE 310 DENVER, COLORADO 80204 303-752-6730 www.rrengineers.com		<b>REZONING EXHIBIT</b> 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	
PREPARED BY: DATE: CHECKED BY: DATE: PROJECT NO.	DATE: 04/15/2013 TIME: 10:00 AM SHEET NO. 650 TOTAL SHEETS: 652 PROJECT NO. MC22196	Sheet 1 of 1	

