

SPECIAL DISTRICT (Recommend Approved)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. ID-19-002
Mayberry Metropolitan Districts Nos. 1 and 2

WHEREAS, Colorado Springs Mayberry, LLC, did file an application with the Planning and Community Development Department of El Paso County, pursuant to Section 32-1-204 (2), C.R.S., for the review of a draft service plan for Click here to enter text. Metropolitan District; and

WHEREAS, a public hearing was held by this Commission on July 2, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, study of the proposed service plan for Click here to enter text. Metropolitan District, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, and comments from all interested persons, and comments by the El Paso County Planning Commission during the hearing, this Commission finds as follows:

1. That the application for the draft service plan for the Special District was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were 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 were heard at that hearing.
4. That all exhibits were received into evidence.
5. There is sufficient existing and projected need for organized service in the area to be served by the proposed Special District.
6. Existing service in the area to be served by the proposed Special District is inadequate for present and projected needs.

7. The proposed Special District is capable of providing economical and sufficient service to the area within its proposed boundaries.
8. The area to be included in the proposed Special District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
9. Adequate service is not, or will not be, available to the area through the County, other existing municipal or quasi-municipal corporations, including existing Special Districts, within a reasonable time and on a comparable basis.
10. The facility and service standards of the proposed Special District are compatible with the facility and service standards of each County within which the proposed Special District is to be located and each municipality which is an interested party as defined in C.R.S §32-1-204 and the El Paso County Land Development Code.
11. The proposal is in substantial compliance with a Master Plan adopted pursuant to Colorado Revised Statutes Section 30-28-106.
12. The proposal is in compliance with any duly adopted County, regional or state long-range water quality management plan for the area.
13. The creation of the proposed Special District will be in the best interests of the area proposed to be served.

NOW, THEREFORE, BE IT RESOLVED that the El Paso County Planning Commission recommends the service plan for Mayberry Metropolitan Districts Nos. 1 and 2 be approved for the following, subject to the following:

CONDITIONS OF APPROVAL

1. As stated in the proposed amended service plan, the maximum combined debt service operations and maintenance, and covenant enforcement mill levy shall not exceed 65 mills for District 1 and 40 mills for District 2 (Gallagher-adjusted) for any property within the District, with no more than 50 mills for District 1 and 25 mills for District 2 devoted to debt service and not more than 10 mills devoted to operations and maintenance for each District until and unless the Districts receive Board of County Commissioner approval to increase the maximum mill levies.
2. As stated in the attached service plan, the maximum authorized debt for the Districts shall be limited to \$164,240,000 until and unless the Districts receive Board of County Commissioner approval to increase the maximum authorized debt.
3. The approval of the amended and restated Service Plan includes the use of eminent domain powers by the Districts for the acquisition of property that are intended to be owned, controlled, or maintained by the Districts or other public or non-profit entity and is for the material use or benefit of the general public. The Districts may not use the power of eminent domain without a recommendation by

the Board of County Commissioners at a publicly noticed hearing that the use of eminent domain is necessary in order for the Districts to continue to provide service(s) within the Districts' boundaries and that there are no other alternatives that would not result in the need for the use of eminent domain powers.

4. As stated in the attached amended and restated Service Plan, any future annexation of territory by the Districts (any territory more than five (5) miles from any District boundary line) shall be considered a material modification of the amended Service Plan and shall require prior Board of County Commissioners' approval.
5. The Districts shall provide a disclosure form to future purchasers of property in a form consistent with the approved Special District Annual Report form. The developer shall provide written notation on each subsequent final plat associated with the development of the annually filed public notice and include reference to the El Paso County Planning and Community Development website where the most up-to-date notice can be found. County staff is authorized to administratively approve updates of the disclosure form to reflect current contact information and calculations.
6. The Districts are expressly prohibited from creating separate sub-districts except upon prior notice to the Board of County Commissioners, and subject to the Board of County Commissioners right to declare such creation to be a material modification of the service plan, pursuant to C.R.S. § 32-1-1101(1)(f)(I).
7. As stated in the attached service plan, approval of the proposed service plan hereby gives the Districts the express authority of covenant enforcement, including the imposition of fees for such enforcement.
8. As stated in the attached service plan, the Districts shall not have the authority to apply for or utilize any Conservation Trust ("Lottery") funds without the express prior consent of the Board of County Commissioners. The Districts shall have the authority to apply for and receive any other grant funds, including, but not limited to, Great Outdoors Colorado (GOCO) discretionary grants.
9. Approval of this application shall not constitute relinquishment or undermining of the County's authority to require the developer to complete subdivision improvements as required by the Land Development Code and Engineering Criteria Manual and to require subdivision improvement agreements or development agreements and collateral of the developer at the final plat stage to guarantee the construction of improvements.
10. The Districts shall not be authorized to issue debt until and unless a final plat for property included within the Districts has been filed in the records of the El Paso County Clerk and Recorder's Office.

NOTATIONS

1. Approval of this service plan shall in no way be construed to infer a requirement or obligation of the Board of County Commissioners to approve any future land use requests within the boundaries of the Districts.

2. Any expansions, extensions, or construction of new facilities by the Districts will require prior review by the Planning and Community Development Department to determine if such actions are subject to the requirements of Appendix B of the Land Development Code, Guidelines and Regulations for Areas and Activities of State Interest (a.k.a. "1041 Regulations).

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

Commissioner Trowbridge seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Lucia-Treese	aye
Commissioner Creely	aye
Commissioner Trowbridge	aye
Commissioner Blea-Nunez	aye
Commissioner Curry	aye

The Resolution was adopted by a vote of 6 to 0 by the El Paso County Planning Commission, State of Colorado.

DATED: July 2, 2019



Brian Risley, Chair

APPENDIX A

LEGAL DESCRIPTION – MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1:

A TRACT OF LAND LOCATED IN THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 NE1/4) AND THE WEST ONE-HALF (W1/2) OF SECTION 14 AND THE EAST ONE-HALF OF THE EAST ONE-HALF (E1/2 E1/2) OF SECTION 15, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID W1/2, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID E1/2 E1/2, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999", FROM WHICH THE NORTHEAST CORNER OF SAID W1/2, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID W1/2 NE1/4, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999", BEARS S89°44'49"E, A DISTANCE OF 2606.55 FEET AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE S89°44'49"E ALONG THE NORTH LINE OF SAID W1/2, A DISTANCE OF 634.51 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE S89°44'49"E CONTINUING ALONG THE NORTH LINE OF SAID W1/2, A DISTANCE OF 1972.03 FEET TO THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID W1/2 NE1/4;
THENCE S00°14'20"E ALONG THAT LINE COMMON TO SAID W1/2 AND SAID W1/2 NE1/4, A DISTANCE OF 33.51 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED IN BOOK 5527 AT PAGE 376 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;
THENCE ALONG THE PERIMETER OF THAT TRACT AS DESCRIBED IN SAID BOOK 5527 AT PAGE 376 THE FOLLOWING THREE (3) COURSES;
1.) THENCE N89°28'59"W, A DISTANCE OF 290.01 FEET;
2.) THENCE S00°14'20"E, A DISTANCE OF 147.84 FEET;
3.) THENCE S89°44'49"E, A DISTANCE OF 230.80 FEET;
THENCE S00°00'00"E, A DISTANCE OF 154.51 FEET;
THENCE N89°28'59"W, A DISTANCE OF 23.35 FEET;
THENCE S00°00'00"E, A DISTANCE OF 173.74 FEET;
THENCE S89°28'59"E, A DISTANCE OF 665.30 FEET;
THENCE N00°00'00"E, A DISTANCE OF 10.73 FEET;
THENCE S89°28'59"E, A DISTANCE OF 341.89 FEET;
THENCE N00°00'00"E, A DISTANCE OF 223.01 FEET;
THENCE N89°28'59"W, A DISTANCE OF 40.00 FEET;
THENCE N00°00'00"E, A DISTANCE OF 201.26 FEET;
THENCE N89°28'49"W, A DISTANCE OF 233.36 FEET;
THENCE N89°28'59"W, A DISTANCE OF 651.72 FEET TO A POINT ON THE WEST LINE OF SAID W1/2 NE1/4, SAID POINT ALSO BEING A POINT ON THE EAST LINE OF SAID W1/2 AND A POINT ON THE EAST LINE OF THAT TRACT AS DESCRIBED IN SAID BOOK 5527 AT PAGE 376;

THENCE N00°14'20"W ALONG THAT LINE COMMON TO SAID W1/2 NE1/4, SAID W1/2 AND SAID TRACT, A DISTANCE OF 40.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT;

THENCE N00°14'20"W CONTINUING ALONG THAT LINE COMMON TO SAID W1/2 NE1/4 AND SAID W1/2, A DISTANCE OF 33.51 FEET TO THE NORTHERLY COMMON CORNER THEREOF;

THENCE S89°44'50"E ALONG THE NORTH LINE OF SAID W1/2 NE1/4, A DISTANCE OF 1303.26 FEET TO THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER (E1/2 NE1/4) OF SAID SECTION 14;

THENCE S00°21'12"E ALONG THAT LINE COMMON TO SAID W1/2 NE1/4 AND SAID E1/2 NE1/4, A DISTANCE OF 2633.63 FEET TO THE SOUTHERLY COMMON CORNER THEREOF, SAID POINT ALSO BEING A POINT ON THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE1/4) OF SAID SECTION 14;

THENCE N89°36'00"W ALONG THAT LINE COMMON TO SAID W1/2 NE1/4 AND SAID SE1/4, A DISTANCE OF 1308.58 FEET TO THE WESTERLY COMMON CORNER THEREOF, SAID POINT ALSO

BEING A POINT ON THE EAST LINE OF SAID W1/2 AND THE CENTER ONE-QUARTER CORNER OF SAID SECTION 14;

THENCE S00°14'15"E ALONG THAT LINE COMMON TO SAID W1/2 AND SAID SE1/4, A DISTANCE OF 2631.90 FEET TO THE SOUTHERLY COMMON CORNER THEREOF;

THENCE N89°24'37"W ALONG THE SOUTH LINE OF SAID W1/2, A DISTANCE OF 2630.66 FEET TO THE SOUTHWEST CORNER THEREOF, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID E1/2 E1/2;

THENCE N89°25'53"W ALONG THE SOUTH LINE OF SAID E1/2 E1/2, A DISTANCE OF 1313.35 FEET TO THE SOUTHWEST CORNER THEREOF, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF THE WEST ONE-HALF OF THE EAST ONE-HALF (W1/2 E1/2) OF SAID SECTION 15;

THENCE N00°05'20"E ALONG THAT LINE COMMON TO SAID E1/2 E1/2 AND SAID W1/2 E1/2, A DISTANCE OF 4464.02 FEET;

THENCE ALONG THE ARC OF A 499.50 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 13°42'14", AN ARC LENGTH OF 119.47 FEET (THE LONG CHORD OF WHICH BEARS S64°31'28"E, A LONG CHORD DISTANCE OF 119.18 FEET);

THENCE ALONG THE ARC OF A 111.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 120°49'42", AN ARC LENGTH OF 235.14 FEET (THE LONG CHORD OF WHICH BEARS S49°26'40"E, A LONG CHORD DISTANCE OF 193.92 FEET);

THENCE S46°47'22"E, A DISTANCE OF 28.14 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A 600.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 42°41'38", AN ARC LENGTH OF 447.46 FEET (THE LONG CHORD OF WHICH BEARS S68°08'11"E, A LONG CHORD DISTANCE OF 437.18 FEET) TO A POINT OF TANGENCY;

THENCE S89°29'00"E, A DISTANCE OF 1251.64 FEET;

THENCE N00°31'01"E, A DISTANCE OF 1137.42 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 493.58 ACRES OF LAND, MORE OR LESS.

**LEGAL DESCRIPTION – MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT
NO. 2:**

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE NORTH ONE-HALF (N1/2 N1/2) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER (NW1/4) OF SAID SECTION 14, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER (NE1/4) OF SAID SECTION 14, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999", FROM WHICH THE NORTHWEST CORNER OF SAID NW1/4, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE NORTHEAST ONE-QUARTER (NE1/4) OF SECTION 15 OF SAID TOWNSHIP 14 SOUTH, RANGE 63 WEST, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999" BEARS N89°44'49"W, A DISTANCE OF 2606.55 FEET AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE S89°44'50"E ALONG THE NORTH LINE OF THE NE1/4 OF SAID SECTION 14, A DISTANCE OF 651.61 FEET TO THE CALCULATED POSITION OF THE NORTHWEST CORNER OF THE EAST ONE-HALF OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (E1/2 W1/2 NE1/4) OF SAID SECTION 14, SAID POINT ALSO BEING THE CALCULATED POSITION OF THE NORTHEAST CORNER OF THE WEST ONE-HALF OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 W1/2 NE1/4) OF SAID SECTION 14; THENCE S00°17'46"E ALONG THE WESTERLY LINE OF SAID E1/2 W1/2 NE1/4, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID W1/2 W1/2 NE1/4, A DISTANCE OF 76.51 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE S89°28'49"E, A DISTANCE OF 233.36 FEET;

THENCE S00°00'00"E, A DISTANCE OF 201.26 FEET;

THENCE S89°28'59"E, A DISTANCE OF 40.00 FEET;

THENCE S00°00'00"E, A DISTANCE OF 223.01 FEET;

THENCE N89°28'59"W, A DISTANCE OF 341.89 FEET;

THENCE S00°00'00"E, A DISTANCE OF 10.73 FEET;

THENCE N89°28'59"W, A DISTANCE OF 665.30 FEET;

THENCE N00°00'00"E, A DISTANCE OF 173.74 FEET;

THENCE S89°28'59"E, A DISTANCE OF 23.35 FEET;

THENCE N00°00'00"W, A DISTANCE OF 154.51 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED IN BOOK 5527 AT PAGE 376 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID TRACT THE FOLLOWING TWO (2) COURSES;

1.) THENCE S89°44'49"E, A DISTANCE OF 59.20 FEET;

2.) THENCE N00°14'20"W, A DISTANCE OF 106.50 FEET;

THENCE S89°28'59"E, A DISTANCE OF 651.72 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 9.50 ACRES OF LAND, MORE OR LESS.