

MAP AMENDMENT (REZONING) – PLANNED UNIT DEVELOPMENT (PUD)  
(RECOMMEND APPROVAL)

Commissioner Fuller moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. PUDSP-21-009**

**Mayberry Phase 1**

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

**WHEREAS**, a public hearing was held by this Commission on March 17, 2022; 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 was provided as required by law for the hearing before the Planning Commission of El Paso County.
3. The hearing before the Planning Commission was extensive and complete, all pertinent facts, matters, and issues were submitted and reviewed, and all interested persons were heard at that hearing.
4. That all exhibits were received into evidence; and
5. The proposed PUD (Planned Unit Development) District zoning is in general conformity with the Master Plan for El Paso County, Colorado.
6. The proposed PUD District zoning advances the stated purposes set forth in Chapter 4, Section 4.2.6, of the El Paso County Land Development Code.

7. There has been a substantial change in the character of the area since the land was last zoned.
8. The proposed development is in compliance with the requirements of the Land Development Code and all applicable statutory provisions and will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County.
9. The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment; and will not have a negative impact upon the existing and future development of the surrounding area.
10. The proposed development provides adequate consideration for any potentially detrimental use-to-use relationships (e.g. commercial use adjacent to single-family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site.
11. The allowed uses, bulk requirements and required landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community.
12. The areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project.
13. Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities.
14. The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g., fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed.
15. The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy-efficient site design.
16. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere with the present or future extraction of such deposit unless acknowledged by the mineral rights owner.
17. Any proposed exception or deviation from the requirements of the zoning resolution or the subdivision regulations is warranted by virtue of the design and amenities incorporated in the development plan and development guide.
18. The owner has authorized the application.

19. The subdivision is in conformance with the subdivision design standards and any approved sketch plan.
20. Sufficiency: 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.
21. 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 Land Development Code.
22. 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.W. §30-28-133(6)(c)].
23. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
24. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
25. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
26. 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.
27. For the above-stated and other reasons, the proposed zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission recommends approval of the application to amend the EL Paso County Zoning Map to rezone rezone property to the PUD (Planned Unit Development) zoning district.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends approval of the PUD Development Plan as a preliminary plan.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends the following conditions and notations be placed upon this approval:

#### **MODIFICATION**

1. A PUD Modification of Section 8.4.5.G.4.b of the Code is requested with this application to allow for a reduction in the side yard drainage easements to four (4) feet.

## **CONDITIONS**

1. Development of the property shall be in accordance with this PUD development plan. Minor changes in the PUD development plan, including a reduction in residential density, may be approved administratively by the Director of the Planning and Community Development Department consistent with the Land Development Code. Any substantial change will require submittal of a formal PUD development plan amendment application.
2. Approved land uses are those defined in the PUD development plan and development guide.
3. All owners of record must sign the PUD development plan.
4. The PUD development plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any final plats for hearing by the Planning Commission. The development guide shall be recorded in conjunction with the PUD development plan.
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 Parks and 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 threatened species.
6. Applicable park, school, drainage, bridge, and traffic fees shall be paid to El Paso County Planning and Community Development at the time of final plat(s) recordation.

## **NOTATIONS**

1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director.
2. 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.

3. 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.
4. Preliminary plans not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.
5. Approval of the preliminary plan will expire after two (2) years unless a final plat has been approved and recorded or a time extension has been granted.

**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.

Commissioner Moraes seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	aye
Commissioner Fuller	aye
Commissioner Lucia-Treese	aye
Commissioner Carlson	aye
Commissioner Trowbridge	aye
Commissioner Moraes	aye
Commissioner Schuettpelz	aye
Commissioner Whitney	aye

The Resolution was adopted by a vote of 8 to 0 by the El Paso County Planning Commission, State of Colorado.

DATED: March 17, 2022



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Brian Risley, Chair

## EXHIBIT A

### LEGAL DESCRIPTION – MAYBERRY PHASE 1 PUD AMENDMENT:

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER (NE1/4) OF SECTION 15 AND IN THE NORTH ONE-HALF (N1/2) OF SECTION 14, 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 SECTION 14, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID SECTION 15, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116\_4 1999", FROM WHICH THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14, 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 S00°01'09"W ALONG THAT LINE COMMON TO SAID SECTION 15 AND SAID SECTION 14, A DISTANCE OF 61.50 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE S89°28'59"E, A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NEW LOG ROAD AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, AS RECORDED UNDER RECEPTION NO. 220714655 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 1, AS RECORDED UNDER RECEPTION NO. 220211233 OF SAID COUNTY RECORDS AND THE NORTHWEST CORNER OF TRACT K, OF SAID MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID EASTERLY RIGHT-OF-WAY LINE AND THE WESTERLY LINE OF SAID TRACT K, THE FOLLOWING FIVE (5) COURSES;

- 1.) THENCE S00°01'09"W, A DISTANCE OF 180.61 FEET TO A POINT OF CURVATURE;
- 2.) THENCE ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 21°30'29", AN ARC LENGTH OF 137.02 FEET (THE LONG CHORD OF WHICH BEARS S10°44'06"E, A LONG CHORD DISTANCE OF 136.21 FEET) TO A POINT OF TANGENCY;
- 3.) THENCE S21°29'20"E, A DISTANCE OF 134.47 FEET TO A POINT OF CURVATURE;
- 4.) THENCE ALONG THE ARC OF A 435.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 21°29'20", AN ARC LENGTH OF 163.15 FEET (THE LONG CHORD OF WHICH BEARS S10°44'40"E, A LONG CHORD DISTANCE OF 162.19 FEET) TO A POINT OF TANGENCY;
- 5.) THENCE S00°00'00"W, A DISTANCE OF 38.06 FEET;  
THENCE S44°44'29"E ALONG THE SOUTHWESTERLY LINE OF SAID TRACT K, A DISTANCE OF 31.25 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF VILLAGE MAIN STREET AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID TRACT K AND SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 448.41 FEET;

THENCE N45°15'31"E ALONG THE SOUTHEASTERLY LINE OF SAID TRACT K, A DISTANCE OF 30.97 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF MARKETPLACE DRIVE AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE N00°00'00"E ALONG THAT LINE COMMON TO SAID TRACT K AND SAID MARKETPLACE DRIVE, A DISTANCE OF 352.75 FEET;  
THENCE N44°44'29"W ALONG THE EASTERLY LINE OF SAID TRACT K, A DISTANCE OF 31.25 FEET TO THE SOUTHWESTERLY POINT OF TERMINUS OF CATTLEMEN RUN AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID TRACT K AND SAID CATTLEMEN RUN, THE FOLLOWING TWO (2) COURSES;

1.) THENCE N00°00'00"E, A DISTANCE OF 60.00 FEET;  
2.) THENCE N89°28'59"E, A DISTANCE OF 20.79 TO THE SOUTHWEST CORNER OF LOT 1, OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE N00°31'01"E ALONG THAT LINE COMMON TO SAID TRACT K, SAID LOT 1 AND TRACT B OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, A DISTANCE OF 201.27 FEET TO THE NORTHERLY CORNER COMMON TO SAID TRACT K AND SAID TRACT B, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID CDOT TRACT NO. 1;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID SOUTHERLY RIGHT-OF-WAY LINE, SAID TRACT B AND TRACT L OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, A DISTANCE OF 1669.13 FEET TO THE SOUTHEASTERLY CORNER OF SAID CDOT TRACT NO. 1, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN BOOK 5527 AT PAGE 376 OF SAID COUNTY RECORDS;

THENCE ALONG THAT LINE COMMON TO SAID TRACT AND SAID TRACT L, THE FOLLOWING TWO (2) COURSES;

1.) THENCE S00°14'20"E, A DISTANCE OF 107.84 FEET;  
2.) 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 380.91 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SPRINGS ROAD AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE N00°00'00"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 435.02 FEET TO THE SOUTHEAST CORNER OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 2, AS RECORDED UNDER SAID RECEPTION NO. 220211233;

THENCE S89°28'59"E, A DISTANCE OF 65.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID SPRINGS ROAD;

THENCE S00°00'00"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 435.02 FEET;

THENCE S89°28'59"E, A DISTANCE OF 219.39 FEET;

THENCE N00°00'00"E, A DISTANCE OF 10.73 FEET;

THENCE S89°28'59"E, A DISTANCE OF 722.91 FEET TO A POINT ON THE EAST LINE OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 NE1/4) OF SAID SECTION 14;

THENCE S00°21'12"E ALONG SAID EAST LINE, A DISTANCE OF 648.81 FEET;

THENCE N89°28'59"W, A DISTANCE OF 937.75 FEET;

THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 79°26'05", AN ARC LENGTH OF 90.12 FEET (THE LONG CHORD OF WHICH BEARS N89°28'59"W, A LONG CHORD DISTANCE OF 83.07 FEET);

THENCE N89°28'59"W, A DISTANCE OF 2271.94 FEET TO THE SOUTHWESTERLY POINT OF TERMINUS OF MAYBERRY DRIVE AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE N00°31'01"E ALONG THE WESTERLY LINE OF SAID MAYBERRY DRIVE, A DISTANCE OF 100.00 FEET TO A POINT ON THE SOUTHERLY LINE OF TRACT O, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THE SOUTHERLY, EASTERLY, AND NORTHERLY LINES OF SAID TRACT O, THE FOLLOWING FIVE (5) COURSES;

- 1.) THENCE N45°15'31"E, A DISTANCE OF 30.97 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID MARKETPLACE DRIVE;
- 2.) THENCE N00°00'00"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 201.01 FEET;
- 3.) THENCE N44°44'29"W, A DISTANCE OF 31.25 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID VILLAGE MAIN STREET;
- 4.) THENCE N89°28'59"W ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 448.42 FEET;

5.) THENCE S45°15'31"W, A DISTANCE OF 30.97 FEET;  
THENCE CONTINUING ALONG THE SOUTHERLY AND WESTERLY RIGHT-OF-WAY LINES OF SAID VILLAGE MAIN STREET, THE FOLLOWING SEVEN (7) COURSES;

- 1.) THENCE N89°28'59"W, A DISTANCE OF 62.00 FEET;
- 2.) THENCE N44°44'29"W, A DISTANCE OF 31.25 FEET;
- 3.) THENCE N89°28'59"W, A DISTANCE OF 142.00 FEET;
- 4.) THENCE S45°15'31"W, A DISTANCE OF 30.97 FEET;
- 5.) THENCE N89°28'59"W, A DISTANCE OF 62.00 FEET;
- 6.) THENCE N44°44'29"W, A DISTANCE OF 31.25 FEET;

7.) THENCE N00°00'00"E, A DISTANCE OF 70.00 FEET;  
THENCE N45°15'31"E, A DISTANCE OF 30.97 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID NEW LOG ROAD;  
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, THE FOLLOWING FIVE (5) COURSES;

- 1.) THENCE N00°00'00"E, A DISTANCE OF 31.13 FEET TO A POINT OF CURVATURE;
- 2.) THENCE ALONG THE ARC OF A 435.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 19°58'22", AN ARC LENGTH OF 151.64 FEET (THE LONG CHORD OF WHICH BEARS N09°59'11"E, A LONG CHORD DISTANCE OF 150.87 FEET) TO A POINT OF TANGENCY;
- 3.) THENCE N19°58'22"E, A DISTANCE OF 166.93 FEET TO A POINT OF CURVATURE;
- 4.) THENCE ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 19°57'13", AN ARC LENGTH OF 127.11 FEET (THE LONG CHORD OF WHICH BEARS N09°59'45"E, A LONG CHORD DISTANCE OF 126.47 FEET) TO A POINT OF TANGENCY;
- 5.) THENCE N00°01'09"E, A DISTANCE OF 174.24 FEET;  
THENCE S89°07'06"E, A DISTANCE OF 50.01 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 71.39 ACRES OF LAND, MORE OR LESS.