

VACATION AND REPLAT (RECOMMEND APPROVAL)

Mr. Schvettpelz moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VR2323

MAYBERRY FILING NO. 2A

WHEREAS, Mayberry Communities, LLC did file an application with the El Paso County Planning and Community Development Department for approval of a Vacation and Replat request to create three (3) commercial lots within the PUD (Planned Unit Development) zoning district 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; 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. 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; and
7. For the above-stated and other reasons, the proposed Vacation and Replat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, in approving a Vacation and Replat of a Subdivision, the El Paso County Planning Commission and Board of County Commissioners shall find that the application meets the criteria of approval listed in Section 7.2.3(C)(4) of the Land Development Code ("Code") (as amended):

1. The Replat complies with the Code and the original conditions of approval associated with the recorded Plat;
2. No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
3. The Replat is in keeping with the purpose and intent of the Code;
4. The Replat conforms to the required findings for a Minor or Major Subdivision, whichever is applicable;
5. 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 Engineering Criteria Manual ("ECM");
6. The approval will not adversely affect the public health, safety, and welfare; and
7. Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the Replat has been resolved.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Mayberry Communities, LLC for approval of a Vacation and Replat to allow creation of three (3) commercial lots within the PUD (Planned Unit Development) zoning district 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.

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.

Ms. Brittain Jack 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 Schuettpelz	<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 El Paso County Planning Commission, 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 being all of Lots 1, 2 and 3, 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 as Reception Number 221714698 in the Office of the Clerk and Recorder of El Paso County, Colorado,

AND

The Right-of-Ways of Cattlemen Run and Bottlebrush Street established by said MAYBERRY, COLORADO SPRINGS FILING NO. 2 and adjoining said Lots 1, 2 and 3,

AND

All of Tract C, MAYBERRY COLORADO SPRINGS FILING NO. 3, a subdivision of land in the North Half of said Section 14, said county and state, the plat of said subdivision recorded _____, 20__ as Reception Number _____ in said Clerk and Recorder's Office,

All together more particularly described as follows:

Commencing at the North Quarter-corner of said Section 14 monumented by a found 3/4 inch rebar with a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" in a monument box, from whence the Northeast corner of said Section 14, monumented by a found 3/4 inch square bar in a monument box, bears South 89° 44' 50" East as shown on said plats, a distance of 2606.58 feet on the North line of the Northeast Quarter of said Section 14, being the basis of bearings of this description and all bearings herein are relative thereto; Thence South 00° 14' 20" East, 73.51 feet on the East line of the Northwest Quarter of said Section 14, being coterminous with the East line of a parcel of land conveyed to Cherokee Water and Sanitation District by the quit claim deed recorded July 5, 1988 in Book 5527 at Page 376 in said Clerk and Recorder's Office (hereinafter referred to as the "CWSD Parcel"), to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Northwest corner of said Lot 1 and being the POINT OF BEGINNING of the tract of land herein described; Thence South 89° 28' 59" East, 298.82 feet on the North line of said Lot 1, being coterminous with the South Right-of-Way line of State Highway 94 established by the warranty deed recorded December 23, 2020 as Reception No. 220211233 in said Clerk and Recorder's Office, to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Northeast corner of said Lot 1, said corner lying on the West Right-of-Way line of Springs Road established by the plat of MAYBERRY, COLORADO SPRINGS FILING NO. 1 recorded December 23, 2020 as Reception Number 220714655 in said Clerk and Recorder's Office; Thence South 00° 00' 00" East, 435.02 feet on said West Right-of-Way line, being coterminous with the East lines of said Lots 1 and 3 and the East end of said Cattlemen Run Right-of-Way, to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Southeast corner of said Lot 3; Thence North 89° 28' 59" West, 480.38 feet on the South lines of said Lots 2 and 3, said Tract C and the South Right-of-Way line of said Bottlebrush Street to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Southwest corner of said Tract C, said corner also lying on the East Right-of-Way line of Cattlemen Run established by the plat of said MAYBERRY, COLORADO SPRINGS FILING NO. 3; Thence northerly and westerly on the westerly line of said Tract C, being coterminous with said Cattlemen Run Right-of-Way line, the following 5 courses and distances: 1) North 00° 00' 00" East, 149.92 feet to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the beginning of a tangent curve to the right and concave easterly; 2) Thence northerly on said curve an arc length of 12.25 feet, 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 a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the beginning of a reverse curve to the left and concave southwesterly; 3) Thence northerly and northwesterly on said reverse curve an arc length of 105.96 feet, 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 5/8 inch rebar with 1-1/4 inch diameter red plastic cap

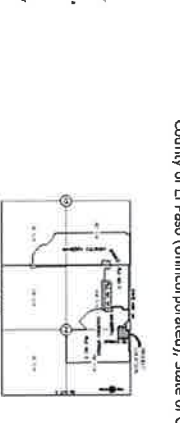
stamped "R&R ENG | PLS 34591" set on the end of said curve at a point of tangency; 4) Thence North $89^{\circ} 28' 59''$ West, 11.59 feet to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the most westerly Southwest corner of said Tract C and being common with the Southeast corner of Tract B, said MAYBERRY, COLORADO SPRINGS FILING NO. 3; 5) Thence North $00^{\circ} 20' 22''$ East, 93.63 feet on the West line of said Tract C, being coterminous with the East line of said Tract B, to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Northwest corner of said Tract C, being a point on the South line of said CWSD Parcel; Thence departing said westerly line of Tract C South $89^{\circ} 44' 49''$ East, 250.00 feet on the South line of said CWSD Parcel, being coterminous with the North line of said Tract C and an east/west segment of the westerly line of said Lot 1, to a 5/8 inch rebar with 1-1/4 inch diameter red plastic cap stamped "R&R ENG | PLS 34591" set on the Southeast corner of said CWSD Parcel, being common with a corner on said westerly line of said Lot 1; Thence North $00^{\circ} 14' 20''$ West, 106.50 feet on the East line of said CWSD Parcel, being coterminous with the westerly line of said Lot 1, to the POINT OF BEGINNING, said tract containing 196,512 square feet or 4.511 acres.

EXHIBIT B

Final Part of
MAYBERRY, COLORADO SPRINGS FILING NO. 2A
Being a replat of All of Lots 1, 2 and 3, MAYBERRY, COLORADO SPRINGS FILING NO. 2, along with Cattleman Run Right-of-Way and Boulderbrush Street Right-of-Way adjoining said Lots 1, 2 and 3;
And All of Tract C, MAYBERRY COLORADO SPRINGS FILING NO. 3;
All lying and situated in the North-Half of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian
County of El Paso (Unincorporated), State of Colorado

COMPLETION AND ACCEPTANCE CERTIFICATE

This Certificate of Completion and Acceptance certifies that the work described in the contract was completed in accordance with the contract documents, including the specifications and drawings, and that the work was accepted by the Owner and the surety. This Certificate shall not be construed to warrant or guarantee the quality or quantity of the work or the performance of the contractor. It is the responsibility of the contractor to provide the necessary materials and labor for the completion of the work. This Certificate shall not be construed to release the contractor from any obligations or liabilities under the contract. This Certificate shall be signed by the Owner and the surety. This Certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety. This Certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety.



REPLAT AND DIVISION OF PLATS PUBLIC RECORDS CHAIRMAN PROCEEDED BY PLAT

NOTICE OF REPLAT AND DIVISION OF PLATS PUBLIC RECORDS CHAIRMAN PROCEEDED BY PLAT

The undersigned, J. Paul Adams, Chairman of the Board of Public Records, do hereby certify that the replat and division of plats of the public records in the above entitled cause were approved and recorded on the 11th day of May 2004, in accordance with the provisions of the Public Records Law, Chapter 24-102, C.R.S., and that the replat and division of plats are now a part of the public records.

GENERAL NOTES

1. This replat and division of plats is subject to the provisions of the Public Records Law, Chapter 24-102, C.R.S., and to the provisions of the Public Records Act, Chapter 24-102.5, C.R.S.
2. This replat and division of plats is subject to the provisions of the Public Records Law, Chapter 24-102, C.R.S., and to the provisions of the Public Records Act, Chapter 24-102.5, C.R.S.
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OWNER'S CERTIFICATE

I, the undersigned, certify that the work described in the contract was completed in accordance with the contract documents, including the specifications and drawings, and that the work was accepted by the Owner and the surety. This Certificate shall not be construed to warrant or guarantee the quality or quantity of the work or the performance of the contractor. It is the responsibility of the contractor to provide the necessary materials and labor for the completion of the work. This Certificate shall not be construed to release the contractor from any obligations or liabilities under the contract. This Certificate shall be signed by the Owner and the surety. This Certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety. This Certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety.

ACKNOWLEDGEMENT

I, the undersigned, certify that I am the owner of the property described in the contract, and that I am signing this certificate as the owner. This certificate shall not be construed to warrant or guarantee the quality or quantity of the work or the performance of the contractor. It is the responsibility of the contractor to provide the necessary materials and labor for the completion of the work. This certificate shall not be construed to release the contractor from any obligations or liabilities under the contract. This certificate shall be signed by the Owner and the surety. This certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety. This certificate shall be signed by the contractor only if the work was not accepted by the Owner and the surety.

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EL PASO COUNTY PUBLIC RECORDS CHAIRMAN

RECORDING

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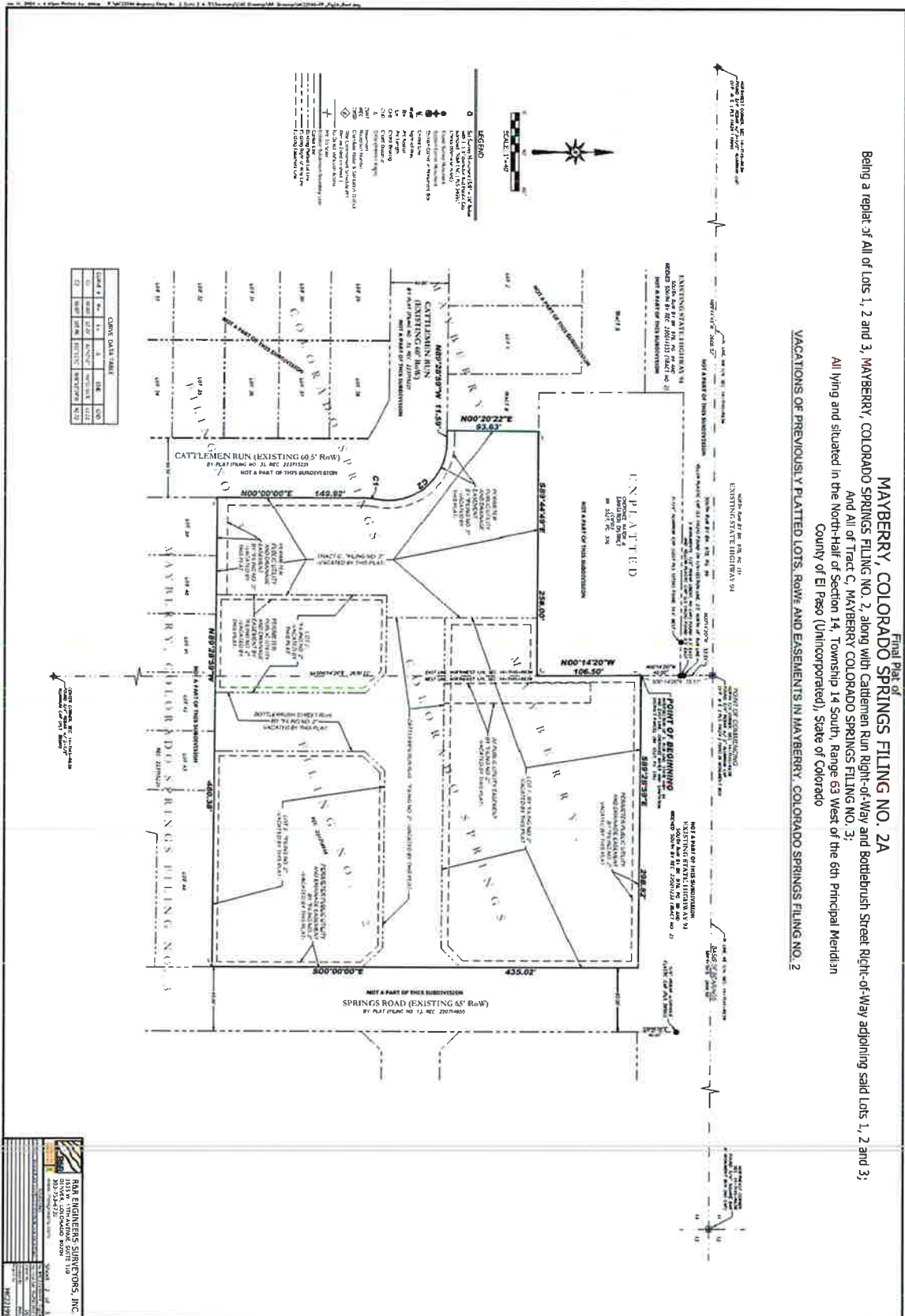
J. Paul Adams
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J. Paul Adams
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Final Plat of
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 County of El Paso (Unincorporated), State of Colorado

LAYOUT AND LOT DETAIL OF THIS REPLAT

