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RESOLUTION NO. 24-189

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

APPROVE VACATION AND REPLAT OF
MAYBERRY FILLING NO. 2A (VR2323)

WHEREAS, Mayberry Communities, LLC did file an application with the Planning and Community Development Department of El Paso County for approval of a vacation and replat request to create three (3) commercial lots within the PUD (Planned Unit Development) zoning for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; 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 vacation and replat; 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. 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 hearings before the Planning Commission and the Board of County Commissioners of El Paso County.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. That the vacation and replat complies with the El Paso County Land Development Code and the original conditions of approval associated with the recorded plat.

6. No nonconforming lots are created and, in the case of existing nonconforming lots, the degree of nonconformity is not increased.
7. That the vacation and replat conforms to the required findings for a minor or major subdivision, whichever is applicable.
8. That 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)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. Where the lots or parcels are subject to any Covenants, Conditions and Restrictions (CC&Rs) or other restrictions, the vacation and replat will not result in a conflict with the CC&Rs or other restrictions unless specifically approved by the Homeowners Association or controlling authority.
10. The vacation and replat is in general conformance with the goals, objectives, and policies of the Master Plan.
11. 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.
12. The proposed Replat of land conforms to the El Paso County Zoning Resolutions.
13. 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.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the vacation and replat of Mayberry Filling No. 2A.

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

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.

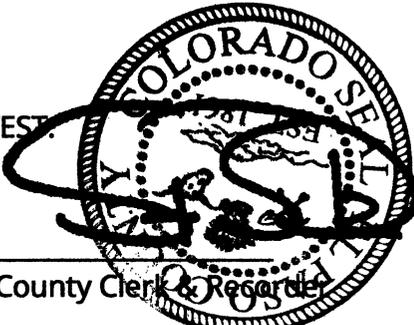
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review 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 the record and recommendations of the El Paso County Planning Commission be adopted.

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

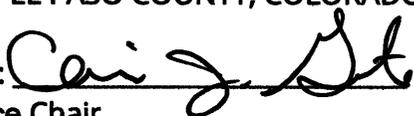
By: 
Vice Chair

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 November 15, 2023 as Reception Number 223715221 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° 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° 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° 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° 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.