

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Development Services

AGENDA DATE: February 26, 2008

CONTACT PERSON/PHONE: Larry F. Nichols, Deputy Director, Ext. 4557

DISTRICT(S) AFFECTED: 6

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Mesquite Trails Unit 1 Subdivision-obtain permission from the City Council for a Conditional "B" permit as per Section 18.02.103.1.1.6 Prerequisite to Issuance of Permits

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

In accordance with Section 18.02.103.1.1.6 Prerequisite to Issuance of Permits, see attached Letter from Americas Loop 375, L.P., owner and developer for Mesquite Trails Unit 1 Subdivision.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Not for this subdivision

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

**Americas Loop 375, L.P.
4655 Cohen Ave.
El paso, TX 79924**

Feb. 12, 2008

**Mr. Omar Souiedan
Civil Engineer Associate II
City Of El paso Development Services Dept.
Two Civic Center Plaza
El paso, TX 79901-1196**

Subject : Mesquite Trails # 1 (Conditional "B" Building permit).

Dear Mr. Souiedan

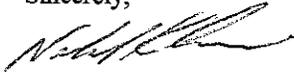
Americas loop 375, L.P. the owner and developer of mesquite trails # 1 is respectfully requesting the approval of conditional "B" building permit for this subdivision .

All of subdivision improvement are completed , development agreement for this subdivision are filed with the county clerk's office and enclosed with the request are copies of the development agreement and list of lots pending permit .

The need for requesting conditional "B" permit to allow the home builder to fulfill contract obligations for pre-sale contracts signed for this subdivision, not meeting the delivery dates set on the contracts would constitute economic hardship to the home builder due to breach of contracts .

Your positive response is critical and greatly appreciated .

Sincerely,



Nahed khouri
Project Manager



MESQUITE TRAILS UNIT - 1

Lots pending permit

<u>ADDRESS</u>	<u>LEGAL DESCRIPTION</u>
1. 12564 Paseo Lindo	Lot:17 Blk:4
2. 12568 Paseo Lindo	Lot:18 Blk:4
3. 12572 Paseo Lindo	Lot:19 Blk:4
4. 12576 Paseo Lindo	Lot:20 Blk:4
5. 12580 Paseo Lindo	Lot:21 Blk:4
6. 12584 Paseo Lindo	Lot:22 Blk:4
7. 12585 Paseo Lindo	Lot:16 Blk:5
8. 12588 Paseo Lindo	Lot:23 Blk:4
9. 12593 Paseo Lindo	Lot:18 Blk:5
10. 12596 Paseo Lindo	Lot:25 Blk:4
11. 12599 Paseo Lindo	Lot:20 Blk:5
12. 1468 Mew Gull	Lot:15 Blk:5
13. 1480 Mew Gull	Lot:12 Blk:5
14. 12533 Western Gull	Lot:43 Blk:4
15. 12557 Western Gull	Lot:37 Blk:4
16. 12561 Western Gull	Lot:36 Blk:4
17. 12565 Western Gull	Lot:35 Blk:4
18. 12573 Western Gull	Lot:33 Blk:4
19. 12581 Western Gull	Lot:31 Blk:4
20. 12589 Western Gull	Lot:29 Blk:4
21. 12593 Western Gull	Lot:28 Blk:4
22. 12597 Western Gull	Lot:27 Blk:4
23. 1429 Fito Hernandez	Lot:64 Blk:4
24. 1433 Fito Hernandez	Lot:63 Blk:4
25. 1437 Fito Hernandez	Lot:62 Blk:4
26. 1445 Fito Hernandez	Lot:60 Blk:4
27. 1449 Fito Hernandez	Lot:59 Blk:4
28. 1451 Fito Hernandez	Lot:57 Blk:4
29. 1461 Fito Hernandez	Lot:56 Blk:4
30. 1465 Fito Hernandez	Lot:55 Blk:4
31. 1473 Fito Hernandez	Lot:53 Blk:4
32. 1477 Fito Hernandez	Lot:52 Blk:4
33. 1485 Fito Hernandez	Lot:50 Blk:4
34. 12552 Twin Leaf	Lot:14 Blk:2

Carefree Homes II

LOTS PENDING PERMIT / LOTS PENDING PLAN #'s

	<u>SUB</u>	<u>ADDRESS</u>	<u>LOT</u>	<u>BLK</u>
1	MT#1	12520 GUS SALCIDO	11	3
2	MT#1	1456 FITO HERNANDEZ	4	3
3	MT#1	1460 FITO HERNANDEZ	3	3
4	MT#1	1464 FITO HERNANDEZ	2	3
5	MT#1	12525 PASEO AZUL	23	3
6	MT#1	12569 PASEO LINDO	27	6
7	MT#1	12596 WESTERN GULL	50	3
8	MT#1	12500 GUS SALCIDO	16	3
9	MT#1	12504 GUS SALCIDO	15	3
10	MT#1	12505 GUS SALCIDO	6	3
11	MT#1	12508 GUS SALCIDO	14	3
12	MT#1	12509 GUS SALCIDO	7	3
13	MT#1	12512 GUS SALCIDO	13	3
14	MT#1	12516 GUS SALCIDO	12	3
15	MT#1	12500 PASEO AZUL	36	3
16	MT#1	12501 PASEO AZUL	17	3
17	MT#1	12504 PASEO AZUL	35	3
18	MT#1	12505 PASEO AZUL	18	3
19	MT#1	12508 PASEO AZUL	34	3
20	MT#1	12512 PASEO AZUL	33	3
21	MT#1	12513 PASEO AZUL	20	3
22	MT#1	12516 PASEO AZUL	32	3
23	MT#1	12520 PASEO AZUL	31	3
24	MT#1	12521 PASEO AZUL	22	3
25	MT#1	12524 PASEO AZUL	30	3
26	MT#1	12528 PASEO AZUL	29	3
27	MT#1	12545 PASEO LINDO	33	6
28	MT#1	12549 PASEO LINDO	32	6
29	MT#1	12553 PASEO LINDO	31	6
30	MT#1	12557 PASEO LINDO	30	6
31	MT#1	12561 PASEO LIINDO	29	6
32	MT#1	12565 PASEO LINDO	28	6
33	MT#1	12501 TWIN LEAF	37	3
34	MT#1	12505 TWIN LEAF	38	3
35	MT#1	12509 TWIN LEAF	39	3
36	MT#1	12513 TWIN LEAF	40	3
37	MT#1	12556 WESTERN GULL	60	3
38	MT#1	12560 WESTERN GULL	59	3
39	MT#1	12564 WESTERN GULL	58	3
40	MT#1	12568 WESTERN GULL	57	3
41	MT#1	12572 WESTERN GULL	56	3
42	MT#1	12576 WESTERN GULL	55	3
43	MT#1	12580 WESTERN GULL	54	3
44	MT#1	12584 WESTERN GULL	53	3
45	MT#1	12588 WESTERN GULL	52	3
46	MT#1	12592 WESTERN GULL	51	3

DEVELOPMENT AGREEMENT

This Development Agreement (this "agreement") is entered into effect this 11TH day of FEB, of 2008, by and between AMERICAS LOOP 375, a Texas corporation, hereinafter referred to as a "Developer" corporation, and TROPICANA HOMES hereinafter referred to as "Applicant", for the purpose of complying with section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of MESQUITE TRAILS U-1, a subdivision in the City Of El Paso, El Paso County, Texas (the "subdivision"); and

WHEREAS, the public improvement required to serve the Subdivision have not been constructed, installed and accepted for maintenance, but Applicant desired to obtain a building permit(s) for a single- family detached dwelling(s), single-family attached dwelling(s), or two family dwelling(s) on a lot or lots within the Subdivision; a

WHEREAS, the El Paso City Code (Building and Construction) (the "Code") provides that, although the subdivision improvements have not been completed, building permits may be issued upon certain conditions, including without limitation, the requirement that Developer and Applicant execute and file this Agreement in the Office of the County Clerk of El Paso County, Texas;

NOW THEREFORE, for good and valuable consideration, and in accordance with the provisions of Section 18.04.035 of the Code and any and all amendments, supplements, or successors thereto, Developer and Applicant understand and agree as follows:

1. Incomplete Subdivision Improvements. Developer and Applicant acknowledge that all subdivision improvements for the Subdivision have not been constructed, installed and accepted for maintenance by the City Of El Paso, or approved by the City Engineer of the City Of El Paso.

2. Issuance of Building Permits. Developer and Applicant acknowledge that building permits for a lot within the subdivision may be issued for single-family dwellings (if otherwise permitted by applicable zoning and restrictions) although the required subdivision improvements have not been completed, provided that (I) water and sewer service, (II) curbing information with the appropriate street design cross section, (III) any drainage facility, and (IV) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein as the "Minimum Improvements"), have been constructed and installed within the right-of-way servicing each such lot, and subject to the following additional conditions:

- (a) an Unconditional Building Permit may be issued for the first twenty-five percent (25%) of the lots within the Subdivision (rounded to the next whole lot);
- (b) A Conditional "A" Building Permit may be issued for the next twenty-five percent (25%) of the lots within the subdivision (rounded to the next whole lot) if, in addition to the construction and installation of the Minimum Improvements, the Developer and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

(c) A Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to construction and installation of the Minimum Improvements, the City Council finds that additional permits should be issued based on economic hardship or public benefit demonstrated by the subdivider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of the El Paso County, Texas.

3. Risk of Commencement. Although Developer will make every effort to complete the Subdivision improvements and have them accepted for maintenance by the City Of El Paso, Applicant expressly assumes ALL RISK for commencing construction of a dwelling unit(s) prior to completion and acceptance of all Subdivision improvements, and hereby release and hold Declarant harmless from all claims, losses, damages, and expenses (including court costs and attorney's fees) arising from the construction of a dwelling unit(s) prior to the full completion and acceptance of all Subdivision improvements by the City of El Paso. Declarant disclaims all representations and warranties with respect to the anticipation completion of Subdivision improvements.

4. Certificate of Occupancy. Declarant and Applicant also acknowledge that a Certificate of Occupancy will not be issued for any lot unless the dwelling unit constructed thereon meets the Building and Zoning Codes of the City of El Paso and, with respect to Conditional "A" Building permits, the Subdivision has been accepted for maintenance by the City of El Paso.

5. Release. Upon satisfactory completion and acceptance of the required public improvements in the Subdivision by the City of El Paso, this agreement shall be terminated.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and enforced by the parties hereto and their respective successors and assigns.

This agreement is executed to be effective on the date and year first set forth above.

DEVELOPER:

[Signature]

By: Nahid Khouri

STATE OF TEXAS)

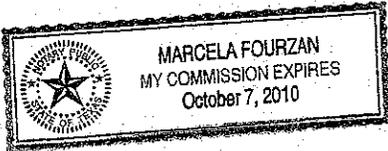
COUNTY OF EL PASO)

APPLICANT:

[Signature]

By: RANDALL J. BOWLING

This instrument was acknowledged before me on this 14th day of FEBRUARY, by RANDALL BOW, a Texas Corporation, on behalf of said corporation.



[Signature]
NOTARY PUBLIC FOR THE STATE OF TEXAS
Printed Name: MARCELA FOURZAN
My commission Expires: OCTOBER 7, 2010

RECORDED

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DEVELOPER:

[Signature]

APPLICANT:

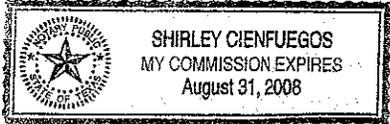
By: Shirley Cienfuegos

By: S.J. Thomas

STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged before me on this 11th day of February, by S.J. Thomas, a Texas Corporation, on behalf of said corporation.



Shirley Cienfuegos

NOTARY PUBLIC FOR THE STATE OF TEXAS

Printed Name: _____

My commission Expires: Aug 31, 2008

COMING