

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

**DEPARTMENT:**     Development Services

**AGENDA DATE:**    April 29, 2008

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

**DISTRICT(S) AFFECTED:**     4  

**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.

Sandstone Ranch Unit Three 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 Tropicana Homes., owner and developer for Sandstone Ranch Unit Three 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:** \_\_\_\_\_

**Tropicana Development, Inc.**

4655 Cohen Ave.

El Paso, Texas 79924

915-821-3550

April 16, 2008

Mr. Omar Soueidan.  
Development Services Department  
City of El Paso  
El Paso, Texas 79901

Dear Mr. Soueidan:

We are requesting that Sandstone Ranch Unit 3 subdivision be put on the City Counsel agenda as soon as possible in order to obtain a Condition "B". At this present time the subdivision has been paved, all sewer and water have received a conditional acceptance from the El Paso Water Utilities, telephone, cable, electrical and storm water drainage system are complete. We are asking for condition "B" because of hardship reasons.

If you have any additional questions please feel free to contact me.

Sincerely,



Peter Yegge  
Vice President

**DEVELOPMENT AGREEMENT**

This Development Agreement (this "agreement") is entered into effect this 10<sup>TH</sup> day of **April**, of **2008**, by and between **Tropicana Development**, 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 **SANDSTONE RANCH UNIT 3 SUBDIVISION**, 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:  
TROPICANA DEVELOPMENT

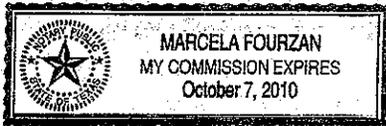
By: [Signature]  
Randall Bowling  
President

APPLICANT:  
TROPICANA HOMES

By: [Signature]  
Company Representative

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

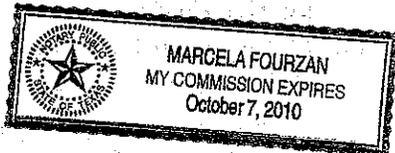
This instrument was acknowledged before me on this 10th day of April, by Randall Bowling, President of Tropicana Development a Texas Corporation, on behalf of said corporation.



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

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 10th day of April, 2008, by Company Representative of Tropicana Homes 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

**DEVELOPMENT AGREEMENT**

This Development Agreement (this "agreement") is entered into effect this 10<sup>TH</sup> day of **April**, of **2008**, by and between **Tropicana Development**, a Texas corporation, hereinafter referred to as a "Developer" corporation, and **Saratoga 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 **SANDSTONE RANCH UNIT 3 SUBDIVISION**, 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 Application 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:  
TROPICANA DEVELOPMENT

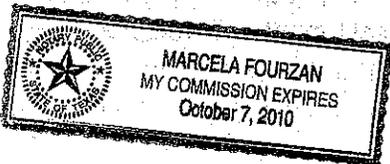
By: [Signature]  
Randall Bowling  
President

APPLICANT:  
SARATOGA HOMES

By: [Signature]  
Company Representative  
JOE L. LANE, JR.  
Development Manager

STATE OF TEXAS )  
)  
COUNTY OF EL PASO )

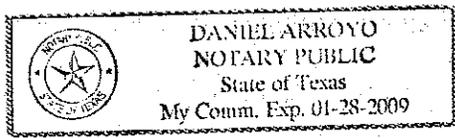
This instrument was acknowledged before me on this 10th day of April, by Randall Bowling, President of Tropicana Development a Texas Corporation, on behalf of said corporation.



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

STATE OF TEXAS )  
)  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 11 day of April, 2008, by Company Representative of Saratoga-Homes a Texas Corporation, on behalf of said corporation.



[Signature]  
NOTARY PUBLIC FOR THE STATE OF TEXAS  
Printed Name: DANIEL ARROYO  
My commission Expires: 1/28/09

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