

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: DEVELOPMENT SERVICES

AGENDA DATE: JUNE 5, 2007

CONTACT PERSON/PHONE: R. ALAN SHUBERT, DEVELOPMENT SERVICES, (915) 541-4557

DISTRICT(S) AFFECTED: 4

SUBJECT:

Discussion and action on Quail Park Subdivision to 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:

In accordance with Section 18.02.103.1.1.6., Prerequisite to Issuance of Permits, see attached letter from KARMA-JKS Properties, Inc. DBA JKS Properties, Inc. & JKS Homes, owner and developer for Quail Park Subdivision.

PRIOR COUNCIL ACTION:

No

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

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:** _____

KARMA-JKS Properties, Inc.
DBA
JKS Properties, Inc. & JKS Homes
General Contractors, Texas & New Mexico
Bonded New Home Builders & Remodelers

26 April 2007

R. Alan Shubert
Director of Development Services
City of El Paso
2 Civic Center Plaza, 5th Floor
El Paso, Texas 79901

Re: Quail Park Subdivision

Dear Alan:

We are the owner, developer, and only builder for the 11-Lot Quail Park Subdivision in Northeast El Paso. We have drawn building permits on 6 of the 11 lots to date under a Conditional "A" Permit approved by your office in late January 2007.

The purpose of this letter is to request a Conditional "B" Permit for the subject subdivision to allow us to draw up to 100% of building permits.

We have completed all elements of development with the exception of underground electrical service and final paving. We are unable to complete required elements due to an inability of El Paso Electric Company to complete their required construction of underground services due to a backlog of work orders; however, we have been waiting for three months and are being told that the work should commence in a couple of weeks. After the EPEC completes their work, we still have to complete paving, monuments, street lights, etc., prior to getting the subdivision accepted.

This delay will cause severe economic hardship for our work force, which depends on our ability to do construction starts. We have started all we can under Conditional "A" permit and will be forced to lay-off workers if we cannot start the remaining lots in this subdivision by May 18th. Our next set of lots (a portion of Summerlin Subdivision) will not become available until late June or early July.

Accordingly, we request that this item be placed on the City Council Agenda for approval with the stipulation that we will not be able to get final inspections or certificates of occupancy on any of these 11 lots until the subdivision is fully accepted.

Thank you for your consideration of this very important matter.


James L. Smith
Vice President

P.O. Box 971725, El Paso, Texas 79997-1725
6236 Quail Avenue, El Paso, TX 79924
Phone: (915) 857-4500 FAX: (915) 855-4439

Texas License: TX 133 1511
New Mexico License: GB98 # 57762
e-mail: jksprop@sbcglobal.net

Received Time Apr.26. 4:44PM

DEVELOPMENT AGREEMENT

PAGE 02

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Honey-BEE CT

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as "Agreement") is entered into effective the 26th day of January, 2007, by and between KARMA-JKS Properties, Inc. dba JKS Properties (hereinafter referred to as "Developer"), a Texas corporation, and JKS Homes (hereinafter referred to as "Applicant"), a Texas corporation, for the purpose of complying with Title 18 (Building and Construction) of the El Paso Municipal Code.

WHEREAS, Developer is the owner and developer of Quail Park Subdivision, a subdivision in the City of El Paso, El Paso County, Texas (hereinafter referred to as the "Subdivision"); and

WHEREAS, the public improvements required to serve the Subdivision have not been constructed, installed and accepted for maintenance, but Applicant desires 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; and

WHEREAS, the El Paso Municipal Code (Building and Construction) (hereinafter referred to as 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 the 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 Title 18 (Building and Construction) of the El Paso Municipal 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 Deputy Director for Engineering 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 detached dwellings, single-family attached dwellings, or two-family dwellings (if otherwise permitted by applicable zoning and restrictions) although the required subdivision improvements have not been completed, provided that (a) water and sewer service, (b) curbing conforming with the appropriate street design cross-section, (c) any drainage facility, and (d) any other remaining public improvement required by the Deputy Director for Engineering in order to adequately provide for construction on the lot (collectively hereinafter referred to 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 in 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; and

C. a Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to the 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 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 RISKS for commencing construction of a dwelling unit(s) prior to completion and acceptance of all Subdivision improvements, and hereby releases and holds 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 anticipated completion of the 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 approved for acceptance by the Deputy Director for Engineering, and with respect to Conditional "B" 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 terminate. The Deputy Director for Engineering is authorized by the Code to execute a formal release, which may be filed of record by the Developer or the Applicant.

6. Binding Effect. This Agreement shall be binding upon and enure to the benefit of and be enforceable 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:

APPLICANT:

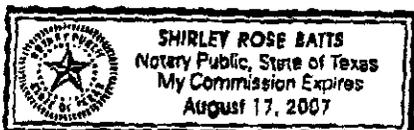
By: _____

By: _____

STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged before me on this 26th day of JANUARY, ~~10~~ 2007, by James L. Smith, a Texas corporation, on behalf of said Corporation.



Shirley Rose Batts
NOTARY PUBLIC FOR THE STATE OF TEXAS
Printed Name: Shirley Rose Batts
My Commission Expires: August 17, 2007

RECORDED
INDEXED
FILED
JAN 26 2007
EL PASO COUNTY CLERK
OFFICE

Doc# 20070008099
Pages 2 HTF.pdf.1
1/28/2007 3:09:30 PM
Filed & Recorded in
Official Records of
EL PASO COUNTY
BELLA BRIONES
COUNTY CLERK
Fees 128.00