

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

DEPARTMENT: Development Services Department
AGENDA DATE: Intro on 6/6/06 and final Public Hearing on 6/20/06
CONTACT PERSON/PHONE: Rudy Valdez/4635
DISTRICT(S) AFFECTED: 5

SUBJECT:
An Ordinance annexing a portion of Section 16, Block 79, Township 3, Texas & Pacific Railroad Company Surveys, El Paso County, Texas to the City of El Paso, Texas.

BACKGROUND / DISCUSSION:
This ordinance proposes to annex 379.80 acres into the El Paso City Limits. The current owners of the property are the Socorro Independent School District; Carefree Homes, Inc., L.P.; Tropicana Homes, Inc. a Texas Corporation; and the County of El Paso, Texas. The owner/developer proposes a mix development that includes residential, parks, commercial, and apartment and school uses. The annexation is subject to an Annexation Agreement and Service Plan that are part of the annexation ordinance.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission and Development Coordinating Committee recommended approval.

*****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:** _____

ORDINANCE NO. _____

AN ORDINANCE ANNEXING A PORTION OF SECTION 16, BLOCK 79, TOWNSHIP 3, TEXAS & PACIFIC RAILROAD COMPANY SURVEYS, EL PASO COUNTY, TEXAS TO THE CITY OF EL PASO, TEXAS.

WHEREAS, Socorro Independent School District, Americas Loop 375, LP, and the County of El Paso, Texas, ("Owners"), own approximately 379.80 acres, lying in the City of El Paso's East Extraterritorial Jurisdiction, and is contiguous to the current City limits boundary; the property more fully described in the attached metes and bounds description, identified as Exhibit "A" and made a part hereof by reference, request that this area be annexed into El Paso's city limits; and,

WHEREAS, the attached Service Plan, described as Exhibit "B", identifies the municipal services to be extended to this annexed area and adopted as part of this ordinance; and,

WHEREAS, this annexation is subject, however, to certain conditions identified on the attached agreement described as Exhibit "C"; such agreement being by and between the City of El Paso, Texas, and Owners.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the boundary of the city limits of the *CITY OF EL PASO* is hereby extended so as to annex and include the territory described in Exhibit "A" lying adjacent to the city limits as they are at present established. Further, that the City adopts the Service Plan described as Exhibit "B"; and that the annexation is subject to all terms and conditions cited in the Annexation Agreement, attached as Exhibit "C", by and between the City of El Paso, Texas and Socorro Independent School District, Americas Loop 375, LP, and the County of El Paso, Texas, and that the City Manager is authorized to sign same Agreement.

PASSED AND APPROVED THIS _____ **day of** _____, 2006.

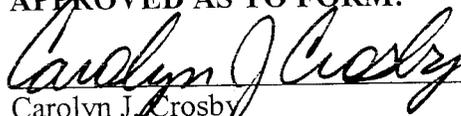
THE CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:



Rodolfo Valdez, Chief Urban Planner
Development Services Department

2267 99 2717
2280-002LP/D

Post-it® Fax Note	7671	Date	6/1	# of pages	2
To	Rudy Valdez	From	Jose Barragan		
Co./Dept.	City	Co.	CEA		
Phone #	5414028	Phone #	545232		
Fax #	5414028	Fax #	5445233		

BARRAGAN & ASSOCIATES

Land Planning & Land Surveying

1450 Pendale Road Suite B, El Paso, Texas 79936, Phone 915) 591-5709 Fax 591-5706

DESCRIPTION

Description of a 379.80 acre parcel of land being a portion of Sections 16, Block 79, Township 3, Texas and Pacific Railway company Surveys, El Paso County, Texas, and being more particularly described as follows, to wit:

Commencing for reference at the northwest corner for said section 16; Thence, S 86°56'57" E, a distance of 2655.21 feet to point for the northeast corner for Paseos Del Sol Unit Two; Filed in Volume 79, page 66, Plat Records of El Paso County, Texas. From whence the northeast corner for a 381.80 acre parcel in Deed filed in volume 2827, page 277, bears S 86°56'57" E a distance of 2.18 feet, said point being the POINT OF BEGINNING for this description;

Thence, S 86°56'57" E, with the north line of said 381.90 acre parcel, a distance of 2549.53 feet to a point for the northeast corner of this parcel; From whence the northeast corner for said 381.90 acre parcel in Deed filed in volume 2827, page 277, bears S 86°56'57" E a distance of 9.57 feet;

Thence, S 02°22'00" W, with the east line of said section 16, a distance of 4752.42 feet to a point for corner;

Thence, N 86°58'46" W, a distance of 2078.03 feet to a point for the corner;

Thence, S 03°03'39" W, a distance of 424.95 feet to a point for corner on the south line of said 381.80 acre tract;

Thence, N 86°55'56" W, a distance of 1400.00 feet to a point;

Thence, N 03°03'39" E, with the westerly line of said Deed filed in volume 2827, page 277, a distance of 1218.80 feet to a point for corner;

Thence, N 86°48'02" W, with the south line of said Deed filed in volume 2827, page 277, a distance of 1181.78 feet to a point for corner on the existing City Limits of the City of El Paso, El Paso County, Texas;

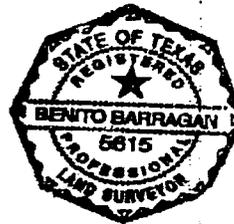
Thence, N 02°27'16" E, with said existing City limits, a distance of 1337.21 feet to a point for corner;

Thence, S 86°57'52" E, leaving said City Limits and with the northerly line of said Deed filed in volume 2827, page 277, a distance of 673.18 feet to a point for the southwesterly corner for Paseos Del Sol Unit Two;

Thence, S 88°55'50" E, along the south line of Paseos Del Sol Unit Two, and with said City Limits a distance of 1326.81 feet to a point for the southeast corner of Paseos Del Sol Unit Two;

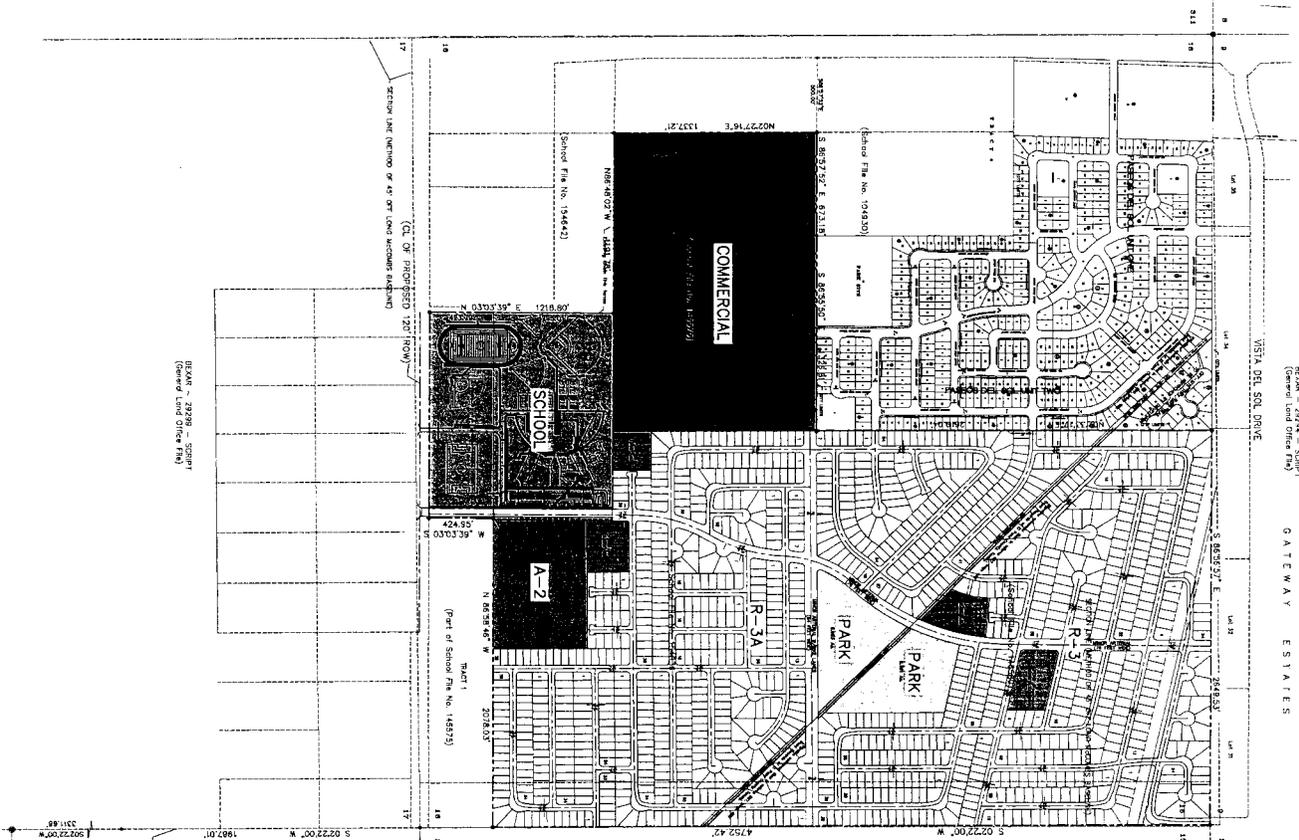
Thence, N 02°33'17" E, along the east line of Paseos Del Sol Unit Two, and with said City Limits, a distance of 2619.04 feet to the POINT OF BEGINNING of this description, containing 379.80 acres of land more less.

Barragan
 Benito Barragan TX R.P.L.S. 5615
 Section 16 concept
 August 5, 2005
 March 07, 2008



- NOTES:
1. A Concept Plan of even date accompanies this Description.
 2. Bearings recited herein are Grid Bearings.
 3. Not a ground survey - compiled from previous surveys.

exhibit A



PROPOSED LAND USE	ACRES	UNITS	DENSITY
RESIDENTIAL R-3A	173.92	914	5.245
RESIDENTIAL R-3	70.62	292	3.993
SCHOOL	37.28	1	0.027
PARK	13.80	1	0.074
HKC/BIKE TRAIL	2.35	1	0.424
POOD	8.29	4	0.483
COMMERCIAL	51.47	1	0.016
A-2	12.36	1	0.082
TOTAL	379.80	1300	10.354

OFF-SITE HKC/BIKE TRAIL	0.653	1	1.531
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SCALE: 1"=400'

DEVELOPMENT PLAN

ANNEXATION

Exhibit B

CITY OF EL PASO ANNEXATION SERVICE PLAN

INTRODUCTION

This Service Plan (Plan) is made by the City of El Paso, Texas (City) pursuant to Chapter 43 of the Texas Local Government Code. This Plan is made specifically for a 379.80-acre property located in the City's East Extraterritorial Jurisdiction (ETJ). The area includes a portion of Section 16, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas. The area is more specifically described by metes and bounds in Exhibit, "A" which is attached to the annexation ordinance for which this Plan is a part.

EFFECTIVE TERM

This Plan shall be in effect for a ten-year period commencing on the effective date of the annexation, unless otherwise stated in this Plan. Renewal of the Plan shall be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council which refers to this Plan and specifically renews this Plan for a stated period of time.

INTENT

It is the intent of the City of El Paso that services under this Plan shall provide full municipal services in accordance with State law and the Annexation Agreement entered into by the property owners and the City, such Agreement being identified as Exhibit "C" and is attached to the annexation ordinance.

The City reserves the right guaranteed to it by Section 43.056(h) Texas Local Government Code, to amend this Plan if the City Council determines that changed conditions or subsequent occurrence or any other legally sufficient circumstances exist under the Local Government Code, or other Texas laws to make this Plan unworkable or obsolete or unlawful.

SERVICE COMPONENTS

This Plan includes three service components: (1) Immediate Services Program, (2) Additional Services, and (3) a Capital Improvement Program.

As used in this Plan, providing services includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities; governmental entities and other public service organizations to provide such services by contract, in whole or in part. It may also include separate agreements with associations or similar entities.

1. Immediate Services Program

The following services will be provided in the annexation area immediately upon the effective date of the annexation, unless otherwise noted.

- a. Police Protection. The El Paso Police Department will provide protection and law enforcement services in the annexation area on the effective date of annexation. These services include:

EXHIBIT "B"

- normal patrols and responses;
 - handling of complaints and incident reports;
 - special units, such as, traffic enforcement, criminal investigations, narcotics, gang suppressions, and special weapons and tactics team.
- b. Fire Protection. The El Paso Fire Department will provide emergency and fire prevention services in the annexation area, on the effective date of annexation. These services include:
- fire suppression and rescue;
 - emergency medical services;
 - hazardous materials mitigation and regulation;
 - emergency prevention and public education efforts;
 - construction plan review;
 - inspections.
- c. Solid Waste Collection. The El Paso Solid Waste Management Department will provide solid waste collection services in the annexation area on the effective date of annexation. Services currently provided in the City for single-family residences include:
- garbage collection - once a week in accordance with established policies of the City;
 - dead animal collection - dead animals are removed from roadways upon request.
- Commercial garbage collection service for businesses, multi-family residences, and mobile home parks is available on a subscription basis from the City or private service providers.
- d. Maintenance of Water and Wastewater Facilities. The City's Public Service Board/El Paso Water Utilities (EPWU) will maintain water and wastewater facilities in the annexed area that are not within the service area of another water or wastewater utility and as governed by their Rules and Regulations.
- e. Maintenance of Roads and Streets, Including Street Lighting. The City's Public Works Department will maintain public streets over which the City has jurisdiction. These services include:
- emergency pavement repair;
 - ice and snow monitoring of major thoroughfares
 - repair maintenance of public streets on as-needed basis and in accordance with established policies of the City.
- f. Maintenance of Parks, Playgrounds, and Swimming Pools. There are no public recreation facilities in the annexation area but the City will provide maintenance of such facilities as they become available.

2. Additional Services

Certain services, in addition to the above services, will be provided within the annexation area. They are as follows:

- a. Drainage Services. The City's Street Department will provide drainage maintenance in the annexation area in accordance with established policies of the City. Services include:
 - maintenance of existing public ponding areas and retention dams;
 - storm sewer maintenance;
 - watershed development review and inspection;
 - emergency spills and pollution complaints response;
 - flood plain office (information relating to flood plains).
- b. Library Department. All library services now provided to areas inside the City will be provided to the annexed area on the effective date of annexation in accordance with the City's existing policies and regulations.
- c. Development Services Department. All inspection services now provided within the City, including building, electrical, plumbing, gas, engineering, housing, and environmental will be extended to the annexed area on the effective date of annexation.
- d. City-County Health Department. All of the City-County Health services codes and regulations will be extended to the annexed area on the effective date of annexation
- e. Planning and Zoning. The planning and zoning jurisdiction of the City will be extended to the annexed area on the effective date of annexation. All land annexed shall be classified in the R-3 zoning district pending a public hearing by the City Plan Commission on the appropriate zoning classification and action by the City Council. Such hearing shall be held within sixty days after the effective date of annexation and such action shall be taken by the City Council within thirty days after the last adjournment of the public hearing.
- f. Other Services. All other City Departments with jurisdiction in the area will provide services according to established City policies and procedures.

3. Capital Improvements Program

The City will initiate the construction of capital improvements necessary for providing municipal services for the annexation area as necessary. Any such construction or acquisition shall begin within two years of the effective date of the annexation and shall be substantially completed within 4 1/2 years after that date. Construction of any capital improvement within the annexation area will be done accordance with the established policies of the City.

- a. Police Protection. No capital improvements are necessary at this time to provide Police services but may be necessary in the future.
- b. Fire Protection. No capital improvements are necessary at this time to provide Fire services but may be necessary in the future.
- c. Solid Waste Collection. No capital improvements are necessary at this time to provide collection services but may be necessary in the future.

- d. Water and Wastewater Facilities. Water and wastewater service will be provided in accordance with the El Paso Water Utility's Rules and Regulations. Capital improvements will be initiated pursuant to the facilities plan for the annexed area.

Water

Water and Wastewater services to new subdivisions will be provided according to the standard policies and procedures of the El Paso Water Utilities, which may require the developer of a new subdivision to install water and wastewater utility lines. The extension of water and sewer service will be provided in accordance with the adopted Rules and Regulations of the El Paso Utilities.

- e. Roads and Streets. No road or street related capital improvements are necessary at this time but may be necessary in the future. In general, the City will acquire control and jurisdiction of all public roads and public streets within the annexation area upon annexation. Future extensions of roads or streets and future installation of related facilities, such as traffic control devices, will be governed by the City's standard policies and procedures.
- f. Parks, Playgrounds and Swimming Pools. No capital improvements are necessary at this time to provide services but may be necessary in the future.
- g. Drainage Facilities. No capital improvements are necessary at this time to provide services but may be necessary in the future.
- h. Street Lighting. It is anticipated that the developer of new subdivisions in the area will install public street lighting in accordance with the City's standard policies and procedures. In other cases, the City will install public street lighting in the annexation area upon request in accordance with established street lighting policies of the City.
- i. Other Publicly Owned Facilities, Building or Services: In general, other City functions and services, and the additional services described above can be provided for the annexation area by using existing capital improvements. Additional capital improvements are not necessary to provide City services.
- j. Capital Improvement Planning. The annexation area will be included with other territory in connection with planning for new or expanded facilities, functions, and services in accordance with established policies of the City.

AMENDMENT: GOVERNING LAW

This Plan may not be amended or repealed except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Plan, and the City reserves the right to make such changes. This Plan is subject to and shall be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules regulations of governmental bodies and officers having jurisdiction.

FORCE MAJEURE

In case of an emergency, such as force majeure as that term is defined in this Plan, in which the City is forced to temporarily divert its personnel and resources away from the annexation area for humanitarian purposes or protection of the general public, the City obligates itself to take all

reasonable measures to restore services to the annexation area of the level described in this Plan as soon as possible. Force Majeure shall include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrest and restraint of government, explosions, collisions, and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City. Unavailability or shortage of funds shall not constitute Force Majeure.

Amendments to the Development Plan may become necessary due to changes in market conditions or other factors. In order to provide flexibility with respect to certain details of the development of the Property, Owner may seek changes in the location and configuration of the proposed uses and streets shown on the Development Plan. Minor modifications to the Plan which do not significantly alter the arrangement of land use, and does not increase the density or relocate major circulation elements or decrease the landscaped area or open space or materially alter the plan or concept for the planned development may be approved administratively by the Director of Development Services. Modifications requested and required by a governmental entity shall be considered minor modifications and may be approved administratively. Major modifications to Exhibit B shall require approval by the El Paso City Council.

Four. Owner hereby agrees that prior to the issuance of any building permits or certificates of occupancy within the Property, Owner shall apply for and secure approval of a subdivision plat in accordance with the procedures of Title 19 (Subdivisions) of the Code.

Five: Immediately upon passage of the ordinance annexing Property, the Property shall automatically be classified as R-F (Ranch and Farm) in accordance with Section 20.08.060 of the Code, pending a public hearing by the City Plan Commission on the appropriate zoning classification and action by the City Council as provided in the case of amendment in Sections 20.04.340 through 20.04.380 and 20.04.400. Such public hearing shall be held within sixty days after the effective date of any such annexation and such action shall be taken by the City Council within thirty days after the last adjournment of the public hearing. A public hearing by the City Plan Commission on the appropriate zoning classification for a newly annexed parcel, as required by Sections 20.04.340 through 20.04.380 and 20.04.400, may be held jointly with the public hearing required for annexation; provided, that the Commission complies with all the procedures required for each public hearing.

Six: Owner(s) agree(s) to provide for the dedication and improvement of public neighborhood parkland or provide fees based on the requirements of Title 19 (Subdivisions) of the Code. The exact location of the parcel(s) shall be determined as part of the Development Plan required under Paragraph Three of this Agreement, and to the extent possible park sites should be co-located in order to create larger neighborhood park sites. An application for off-site dedication of the parkland shall be filed by the Owner(s), pursuant to the requirements of Title 19 (Subdivisions) of the Code, within sixty (60) days of the land study approval by the City.

Seven: Owner(s) agree(s) to provide for the dedication of an adjunct site of real property within the Property for use by the City solely for public purposes, such as open space, parkland, municipal offices, storage, police, fire and EMS protection, or other municipal operations, necessitated by the development of the Property; and identified as part of the approved attached Development Plan described in Paragraph Three of this Agreement. An application for metes and bounds dedication of the real property shall be filed by the Owner(s), pursuant to the requirements of Title 19 (Subdivisions) of

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the Code, with the Subdivision Coordinator for approval by the City within sixty (60) days of the effective date of this Agreement.

Eight: Owner shall dedicate, construct and maintain for a one-year period after acceptance by the City the improvements for the full width of the necessary right-of-way for extensions of any arterial streets as shown in the City's official Major Thoroughfare Plan ("MTP") as of the Effective Date. Except as hereinafter set forth, Owner shall not request or be eligible for reimbursement for any costs associated or in connection with claims for overwidth paving from the City. Owner shall not be obligated to dedicate, construct, and maintain the improvements to the right-of-way for arterial streets added to the City's MTP after the Effective Date or not shown in the attached Road Plan, unless the MTP is amended at the request of the Owner and results in the addition or upgrade of the status of the arterial street. If the City amends the MTP with respect to the Property, after the Effective Date, then the Owner may request or be eligible for reimbursement for any costs associated or in connection with claims for overwidth paving from the City.

Nine: Owner agrees to set aside for future acquisition by the City any real property necessary for other public improvements and facilities, not necessitated solely by the development of the Property, and identified as part of the approved land study described in Paragraph Three of this Agreement. The City shall have five (5) years from the date of the land study approval or any amendments thereto, to finalize such acquisition of real property within the Property.

Ten: Owner agrees to pay a water and wastewater connection fee to the El Paso Water Utilities-Public Service Board for each three-quarter inch (3/4") equivalent water meter that is connected to the public water system as follows:

<u><i>Meter Size</i></u>	<u><i>Water (in Dollars)</i></u>	<u><i>Wastewater (in Dollars)</i></u>
5/8" x 3/4"	583	338
1"	1,438	833
1 1/2"	2,915	1,689
2"	4,664	2,703
3"	9,328	5,405
4"	14,575	8,446
6"	29,149	16,892
8"	54,412	31,531
10"	77,731	45,045

Based on gallons per minute water flow; EPWU-PSB Rules & Regulations No. 1, Sec. 7 (J)

The water and wastewater connection fee shall be increased by three (3) percent on March 1, 2007, and each year thereafter, compounded annually. Payment of the water and wastewater connection fee shall be due at the time of application for water and wastewater connection to the system.

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Eleven: Owner(s) shall provide the City with one (1) mylar and three (3) paper prints of a current aerial map of the Property depicting the condition of the Property at the time of annexation to the City. Such aerial, and any other evidence necessary to demonstrate the existence of any non-conforming lot, use or structure on the Property at the time of annexation, shall be provided by the Owner(s) within thirty (30) days from passage of the ordinance annexing Property to the City. The aerial and other evidence shall be submitted to the Zoning Administrator in the Development Services Department of the City for validation of such non-conforming lot, use or structure within the Property.

Twelve: Owner ensures that facilities and services of sufficient capacity, whether public or private, shall be provided as attributable to any development within the Property.

Notice: Any formal notice or other communication ("Notice") required to be given by one party to the other under this Agreement shall be given in writing, addressed to the Party to be notified at the address set forth below, by (i) delivering the same in person, (ii) depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, (iii) depositing the same with Federal Express or with another nationally recognized courier service guaranteeing "next day delivery," or (iv) sending the same by telefax with confirming copy sent by certified or registered mail. For the purpose of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

- (1) CITY: City of El Paso
Attn: City Manager
2 Civic Center Plaza
El Paso, Texas 79901
- Copy to: City Clerk
Same Address as above
- (2) OWNER: Socorro Independent School District
12300 Eastlake
El Paso, Texas 79927
- County of El Paso
Attn: County Judge
500 E. San Antonio
El Paso, Texas 79901
- Americas Loop 375, L.P.
4655 Cohen Avenue
El Paso, Texas 79924

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The Parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five (5) days written notice to the other Party. If any date or any period provided in this agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday, or legal holiday.

Successors and Assigns: This Agreement is a restriction, condition and covenant running with the Property and a charge and servitude thereon, and shall be binding upon and inure to the benefit of the parties hereto, and their heirs, successors and assigns of all or any part of the Property. Any future conveyance of the Property shall contain the restrictions, conditions and covenants and shall embody this Agreement by express reference; provided, however, this Agreement shall not be binding on, and shall not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property, except for land use regulations that may apply to a specific lot.

Remedies: This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties or by an appropriate action at law or in equity to secure the performance of the restrictions, conditions and covenants herein contained.

In the event a Party (the "Defaulting Party") commits a breach of this Agreement, the other Party (the "Non-Defaulting Party"), shall, prior to bringing suit or pursuing any other remedy, provide written notice of such breach to the Defaulting Party. Following receipt of such notice, the Defaulting Party shall have thirty (30) days within which to cure the breach. If the breach cannot be cured within such thirty (30) day period, the Defaulting Party shall commence to cure such breach within said period and thereafter diligently continue such cure to completion. In the event the Defaulting Party fails to cure the breach within said period, then the Non-Defaulting Party may pursue any remedy provided at law or in equity.

Force Majeure: In the event any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, it is agreed that on such Party's giving of notice and the full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied upon, then the obligations of the Party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability but for no longer period.

The term "force majeure" as used herein, shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, terrorism, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, breakage or damage to machines or pipelines

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and any other inabilities of either Party, whether similar to those enumerated or otherwise, and not within the reasonable control of the Party claiming such inability.

Severability: If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, provided that any invalid provisions are not deemed by the City or the Owner to be material to the overall purpose and operation of this Agreement. If the City or Owner determines that the invalid provision is material, then, if the City has made such determination, the City shall have the option to disannex the Property. If the Owner has made such determination, the Owner shall have the option to terminate this Agreement. Such judgment or decree shall relieve the City and the Owner from performance under such invalid provision of this Agreement.

Entire Agreement: This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties.

Governing Law, Jurisdiction & Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in El Paso County, Texas and hereby submit to the jurisdiction of the courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.

No Third Party Beneficiary: This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.

Waiver: Any failure by a Party hereto to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof or of any provision hereof, and such Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Reservation of Rights: to the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

Further Documents: Each Party agrees that at any time after execution of this Agreement, it will upon request of the other Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement.

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Incorporation of Exhibits and Other Documents by Reference: All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

Effect of State and Federal Laws: Notwithstanding any other provisions of this Agreement, each Party shall, in carrying out the terms of this Agreement, comply with all applicably State and Federal laws.

Headings: The headings as to contents of particular articles or sections herein are inserted only for convenience, and they are in no way to be construed as a limitation on the scope of the particular articles or sections to which they refer.

Ambiguities: In the even of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any Party on the basis that such Party did or did not author the same.

Counterparts: It is understood and agreed that this Agreement may be executed in any number of counterparts, each which shall be deemed an original for all purposes.

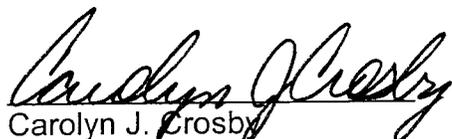
Authority for Execution: Each Party hereby certifies, represents, and warrants that the execution of this Agreement has been duly authorized.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and have caused this instrument to be executed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year first above written.

THE CITY OF EL PASO

Joyce Wilson
City Manager

APPROVED AS TO FORM:


Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:


Redolfo Valdez, Chief Urban Planner
Development Services Department

(Acknowledgement appears on the following page.)

AN05002

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the ____ day of _____, 2006, by Joyce Wilson, as City Manager of the City of El Paso, Texas.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this _____ day of _____, 2006.

Owner(s): Socorro Independent School District

By: _____

Title: Superintendent

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2006, by _____, as Superintendent, on behalf of Socorro Independent School District, Owner.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

AN05002

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this _____ day of _____, 2006.

Owner(s): County of El Paso

By: _____

Title: County Judge

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2006, by _____, as County Judge on behalf of County of El Paso, Texas, Owner.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

AN05002

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this _____ day of _____, 2006.

Owner(s): Americas Loop 375, L.P.
General Partner Trofree LLC

By: _____
Robert L. Bowling III

Title: President, Tropicana Development Inc.

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2006, by Robert L. Bowling III, as President, Tropicana Development Inc., by its General Partner Trofree LLC on behalf of Americas Loop 375, L.P., Owner.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

AN05002

STAFF REPORT

File #: AN05002

Type Request: Annexation

Property Owners: Tropicana Homes, Carefree Homes, El Paso Electric Company, Socorro Independent School District, County of El Paso, Texas - 450.42 acres - Portion of Sections 16 and 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas (East Extraterritorial Jurisdiction).

Legal Description: Portion of Sections 16 and 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas

Surveyor: CEA Engineering

Representative: CEA Engineering

Acres: 379.80

Location: South of Montana Avenue and East of Joe Battle Blvd.

Planning Area: East ETJ

CAREFREE HOMES AND OTHER OWNERS ANNEXATION STAFF REPORT

The property proposed to be annexed currently owned by several owners including, Carefree Homes, Inc., Tropicana Homes, Socorro Independent School District, and the County of El Paso, Texas, and is located South of Montana Avenue, East of Zaragoza Road and north of Pellicano Drive. Owners are proposing a combination of single-family residential, commercial and school on the property. Also attached is copy of the Service Plan required by State Law and that outlines the services to be provided to the area if annexed. Shown below are the development plan details for the proposed annexed area.

DEVELOPMENT PLAN DETAILS

PROPOSED LAND USE	ACRES	UNITS	DENSITY
Residential R-3A	183.7	990	5.389
Residential R-3	73.17	281	3.84
School	39.89	1	N/A
Park	13.12	1	N/A
Hike/Bike Trail	2.62	1	N/A
Pond	8	4	N/A
Commercial	61.85	1	N/A
TOTALS	382.35	1279	

RECOMMENDATIONS:

The Development Coordinating Committee (DCC) on April 19, 2006 recommended approval of annexing the Carefree Homes (other owners) property.

The DCC's recommendation was made subject to the following conditions and considerations:

1. That the Carefree Homes (other owners) annexation be subject to an agreement to be entered into by the owner and the City at the time of approval by the Mayor and City Council of the area proposed to be annexed.
2. That the Service Plan be approved as part of the ordinance approving annexation of the subject property.

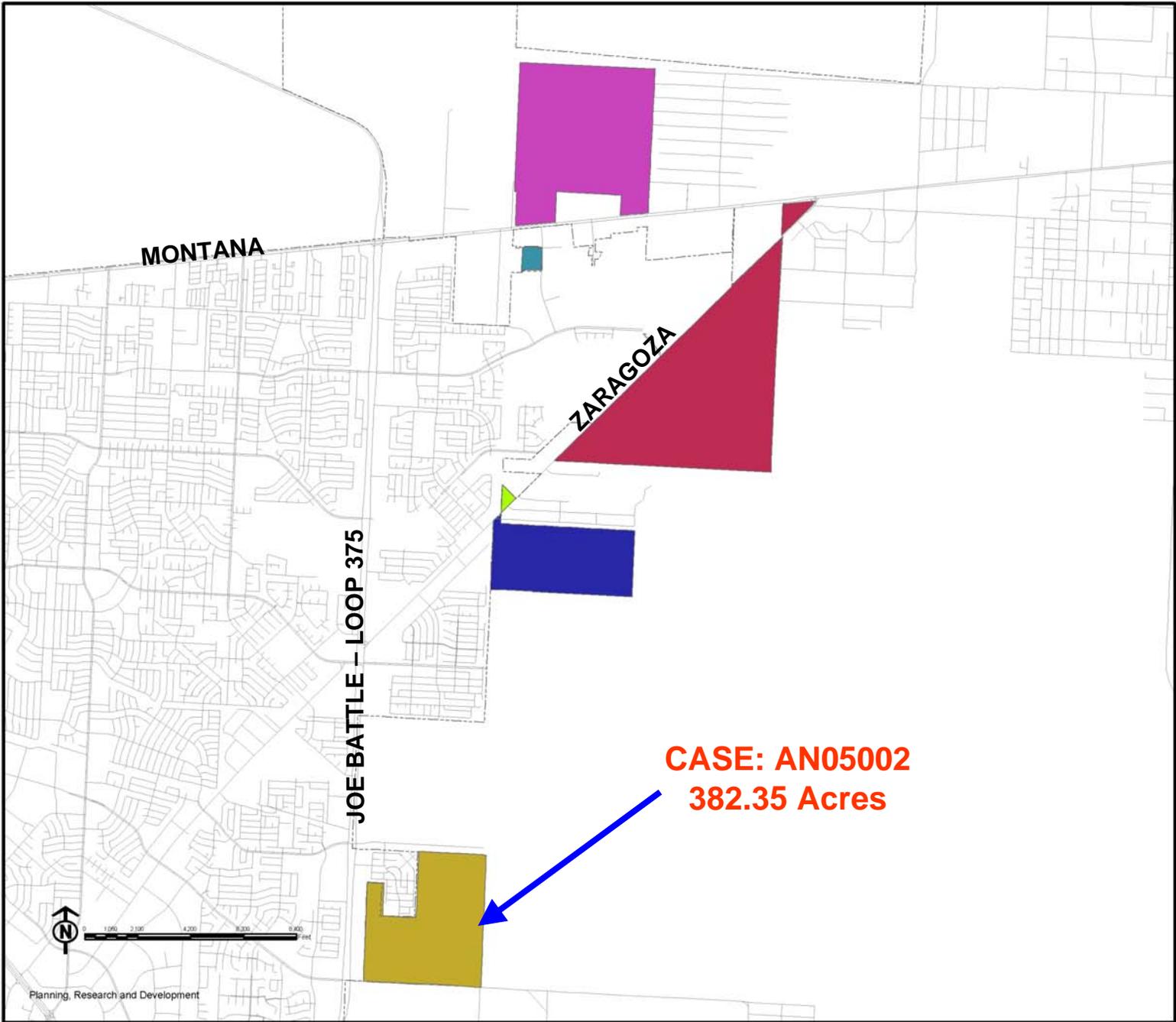
The DCC's recommendation for approval of annexation was based on the overall long-term benefits to the City versus the short-term impacts. The DCC felt that the City should weigh growth management and extension of regulatory authority in these areas to protect the public, health and safety in addition to the costs of extending municipal

services. An annexation cost/benefit analysis was conducted that determined that the benefits of annexation outweighed the costs to accomplish the following:

- ensure proper land use relationships with high standards of construction through zoning and building codes;
- avert costly future problems for the City after development takes place (assuming maintenance responsibilities for substandard infrastructure);
- protect the City's growth ability in the East ETJ (limiting the creation of other special districts (water districts and municipal utility districts, and satellite incorporated communities which could impede future annexations by the City;
- implement the long range goals of the City's Comprehensive Plan; and,
- require applicants to share in the City's hard and soft infrastructure costs to serve the property (not otherwise allowed under the Impact Fee Statute for properties within the City Limits for off-site systems).

Finally, it was determined that the costs to the City and its taxpayers would be substantially higher if annexation was delayed and development of these areas proceeded without governmental control.

Annexation



CASE: AN05002

