

TO: JAMES L. APP, CITY MANAGER
FROM: JOHN R. McCARTHY, DIRECTOR OF PUBLIC WORKS
SUBJECT: SUBDIVISION IMPROVEMENTS – ARCIERO DEVELOPMENT (TRACT 2223-1)
DATE: OCTOBER 5, 1999

Needs: For the City Council to receive an update on Tract 2223-1 improvements to be completed by Arciero Development Company, and take appropriate action to complete improvements.

- Facts:**
1. The City Council passed the attached resolution, 99-160, to withhold all Certificates of Occupancy for the project at the 9/21/99 meeting.
 2. Arciero Development Company appears to be working toward completion of both driveways and all improvements associated with this tract, so all improvements should be completed by the time of the Council meeting.
 3. Based on their progress and the time sensitive nature of the Certificate of Occupancy, staff wanted to bring this issue back to the Council at the earliest opportunity.

Analysis and Conclusion:

Arciero Development Company has an obligation to complete all of the improvements as required of Tract 2223-1. The project Conditions of Approval required the completion of Prospect Avenue and all public improvements prior to granting any Certificates of Occupancy for any houses. In August of 1998, the developer requested that the Council permit Certificates of Occupancy to be released with a promise to complete Prospect Avenue and all tract improvements by January 1999. In January, the Arciero Development Company requested a time extension of six months to complete the improvements. The City Council granted additional time (to June 30, 1999) to complete Prospect Avenue and all public improvements.

During their July 20, 1999, meeting the Council took two separate actions on a request from the developer for yet another time extension. By August 3, 1999, Prospect Avenue is to be improved with asphalt paving and by August 17, 1999, all improvements to Prospect Avenue including driveway transitions acceptable to the property owners and all landscaping and other improvements required for Tract 2223-1.

Additionally, Council determined that if the August 3rd or August 17th deadline are not met by the developer, appropriate action will be considered to ensure the completion of the work. This action may include delaying the issuing further Certificates of Occupancy for this development project.

A 20-day Notice of Default, was filed by the City on this project. The developer has not completed the improvements of landscaping of the project in accordance with the plans, nor was the work completed necessary to make usable driveways to the Hazelzet residence on Prospect Ave., within the twenty-day time frame.

Subsequent to the action of the 9/21/99 City Council meeting to withhold Certificates of Occupancy, the developer has pursued the construction of the final improvements for their project. The improvements may be completed in time for the Council meeting.

Policy Reference: City/Developer Subdivision Agreement and Conditions of Approval.

**Fiscal
Impact:** None

- Options:**
- A. For the City Council to approve the attached Resolution rescinding the previous order withholding Occupancy Permits for this project.

 - B. Amend, modify, or reject the above options.

Attachments (1)
Resolution 99-160
Resolution rescinding previous order

RESOLUTION NO. 99-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PASO ROBLES, CALIFORNIA, TAKING THE FOLLOWING ACTIONS REGARDING
BELLA VISTA ESTATES, LLC AND TRACT 2223-1:
ORDERING THE RELEASE OF OCCUPANCY PERMITS

WHEREAS, based on staff report, staff presentation and public comment, the City Council of the City of Paso de Robles (herein "City") finds:

A. That Bella Vista Estates, LLC (herein "Subdivider") has completed Phase One improvements as required by the Subdivision Agreement for Tract 223-1, specifically including parkway landscaping, drainage retention basin landscaping, and freeway frontage landscaping;

B. That Subdivider has constructed retaining walls and two driveway access improvements per July 29, 1999 improvement plans submitted by Subdivider on the Hazelzet property located on Prospect Avenue; and

C. The improvements referenced in subsection A, above, have not been dedicated or accepted by City.

THEREFORE, BE IT RESOLVED AS FOLLOWS, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AS FOLLOWS:

Section 1. The above recitals are true and correct and are incorporated herein.

Section 2. Occupancy permits shall be released to Subdivider for Tract 223-1.

PASSED AND ADOPTED by the City Council of the City of Paso Robles, this 5th day of **October**, 1999, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane J. Picanco, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

RESOLUTION NO. 99-160

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES,
CALIFORNIA, TAKING THE FOLLOWING ACTIONS REGARDING
BELLA VISTA ESTATES LLC AND TRACT 2223-1

1. ORDERING THE WITHHOLDING OF OCCUPANCY PERMITS UNTIL FURTHER ACTION OF THE CITY COUNCIL;
2. ORDERING THE WITHHOLDING OF BUILDING PERMITS UNTIL FURTHER ORDER OF THE CITY COUNCIL;
3. DIRECTING STAFF TO PLACE SUBDIVIDER AND ITS SURETY ON NOTICE THAT CITY WILL COMPLETE SUBDIVISION IMPROVEMENTS AND HOLD BOTH THE SUBDIVIDER AND ITS SURETY LIABLE FOR ALL CITY COSTS AND DAMAGES; AND
4. ORDERING CITY STAFF TO TAKE ALL APPROPRIATE ACTIONS TO COMPLETE SUBDIVISION IMPROVEMENTS.

WHEREAS, on or about January 8, 1998, Bella Vista Estates LLC (herein "Subdivider") entered into a subdivision improvement agreement (herein "Subdivision Agreement") with the City of El Paso de Robles (herein "City"); and

WHEREAS, the Subdivision Agreement provided that all subdivision improvements referred to in the Subdivision Agreement would be completed no later than January 8, 1999; and

WHEREAS, the City's standard conditions for development of Tract 2223-1, Section G, paragraph 2, provides that "no buildings shall be occupied until all public improvements are completed and approved by the City Engineer and accepted by the City Council for maintenance; and

WHEREAS, in August of 1998 Subdivider requested that the City Council permit "certificates of occupancy" to be released based on Subdivider's representations and promises that all subdivision improvements would be completed by January of 1999; and

WHEREAS, in December of 1998 Subdivider requested a time extension of six months to complete subdivision improvements; and

WHEREAS, in December of 1998 the City Council granted Subdivider additional time to June 30, 1999 to complete said improvements; and

WHEREAS, on July 6, 1999, Subdivider again requested an extension of time to complete subdivision improvements; and

WHEREAS, on July 20, 1999, the City Council granted a two-week extension to complete subdivision improvements including improvements on the Hazelzet property based on the testimony of Ed King and Robert Pellegrine (representatives of Subdivider) that Subdivider would complete all subdivision improvements by August 17, 1999, including the construction of retaining walls and driveway access to the Hazelzet property and other Phase One improvements; and

WHEREAS, on July 29, 1999, the City received plans from Subdivider for Tract 2223-1 showing retaining walls and driveway access which would be constructed on the Hazelzet property; and

WHEREAS, at its meeting of August 17, 1999, the City Council took the following action regarding Subdivider and Tract 2223-1:

1. Based upon a finding that Subdivider has not completed Phase One improvements as required by the subdivision agreement (specifically including parkway landscaping, drainage retention basin landscaping, and freeway frontage landscaping), the City Council found the Subdivider to be in breach of the subdivision agreement, and
2. Based upon a finding that Subdivider has not constructed retaining walls and driveway access (per the July 29, 1999 improvement plans) on the Hazelzet property located on Prospect Avenue as promised by the Subdivider's agent at the City Council Meeting of July 20, 1999, the City Council declared the Subdivider to be in further breach of the subdivision agreement; and
3. Instructed the Deputy City Attorney to serve a 20-day Notice of Default on Subdivider and its surety; and

WHEREAS, based on staff report, staff presentation and public comment, the City Council finds:

1. That the 20-day Notice of Default has been duly served on Subdivider and Subdivider's surety;
2. That the twenty days to complete subdivision improvements has expired;
3. That Subdivider has not completed Phase One improvements as required by the Subdivision Agreement, specifically including parkway landscaping, drainage retention basin landscaping, and freeway frontage landscaping; and
4. That Subdivider has not constructed retaining walls and driveway access per July 29, 1999 improvement plans submitted by Subdivider on the Hazelzet property located on Prospect Avenue; and

WHEREAS, based on the staff report, staff presentation and public comment the City Council further finds that issuing further building permits for Tract 2223-1 without completion of subdivision improvements would be contrary to the public health and/or public safety,

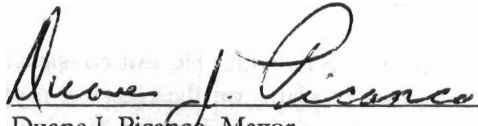
NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AS FOLLOWS:

1. The above recitals are true and correct and are incorporated herein.
2. No further occupancy permits shall be issued to Subdivider for Tract 2223-1 until further order of the City Council.
3. No further building permits shall be issued to Subdivider for Tract 2223-1 until further order of the City Council.
4. City staff shall take all appropriate actions to complete necessary repairs and/or replacements, or perform the necessary work to complete the subdivision improvements.

5. City staff is directed to place Subdivider and its surety on notice that the City will complete the subdivision improvements and hold both the Subdivider and its surety liable for all City costs related to the completion of the subdivision improvements.

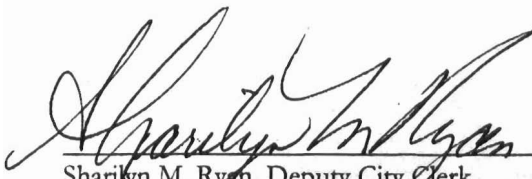
PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 21st day of September, 1999 by the following vote:

AYES: Baron, Macklin, Mecham, Swanson and Picanco
NOES: None
ABSENT: None
ABSTAIN: None



Duane J. Picanco, Mayor

ATTEST:



Sharilyn M. Ryan, Deputy City Clerk