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Councilmember

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July 22, 2008

Village at Mission Lakes
8 Horizon Avenue
Venice CA 90291

The Village at Mission Lakes
8689 Summit Pass
Desert Hot Springs CA 92240

Via Email to al.schmidt7@verizon.net
Via Email to mrisman02@aol.com

SUBJECT: VILLAGE AT MISSION LAKES

Dear Property Owner:

Staff has completed an assessment of the current situation at the Village at Mission Lakes construction site. Due to the current condition at the site, I am requesting an office conference with you prior to proceeding with any further action. Including you in the solution may be beneficial for all parties. Please contact Ms. Kristie Ramos for an appointment with myself, the Public Works Director and the Code Enforcement Supervisor. She is available at (760) 329-6411, Extension 260. Below is an outline of the current issues at the site.

Building Permits

- Building 1 - This permit for a 9,237 square feet retail building was issued on December 4, 2006. The permit expired January 10, 2008, which is 6 months from last inspection date. Cost to reactivate is ½ of permit fees if reactivated within 6 months or full fees if within a year.
- Building 2 - This permit for a 44,667 square feet retail building was issued on February 22, 2007. The permit expired May 13, 2008, which is 6 months from last inspection date. Cost to reactivate is ½ of permit fees if reactivated within 6 months or full fees if within a year.

There is a significant issue related to Building Permits. The Building Permits were approved under a Building Code that has since been revoked and replaced with the new building codes. Most California Cities have adopted the new codes. Expiration of the building permits triggers compliance with the new codes including Title 24. This would be a significant cost for the developer to re-draw plans and specs for the buildings.

Incomplete Offsite Improvement

- *Mission Lakes Boulevard and Little Morongo Road:*
 1. Developer shall construct concrete sidewalks at all locations within the public Right-of-Way as shown on the approved plans.
- *Little Morongo side of project:*
 1. Developer shall complete curb and gutter from the south entrance to the south property corner.
- *Little Morongo entrance to project:*
 1. Developer shall construct concrete cross gutter and spandrels.
 2. Developer shall construct concrete A.D.A. ramps.

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- *Little Morongo Road from intersection of Mission Lakes Boulevard to the south property corner:*
 1. Developer shall construct roadway sections in accordance with approved plans and City of Desert Hot Springs Standard Specifications.
 2. Developer shall adjust all water valves and sewer manholes and other utility vaults to final grades.
- *South West corner of Little Morongo Road @ Mission Lakes Boulevard:*
 1. Developer shall relocate existing Mission Springs Water District sampling station to a location in back of proposed sidewalk/A.D.A. ramp.
 2. Developer shall replace damaged curb and gutter section.
 3. Developer shall construct concrete A.D.A. ramp.
- *Mission Lakes Boulevard entrance to project:*
 1. Developer shall construct concrete A.D.A. ramps.
- *Mission Lakes Boulevard from the intersection of Little Morongo Road to the west property corner:*
 1. Developer shall construct roadway sections in accordance with approved plans and City of Desert Hot Springs Standard Specifications.
 2. Developer shall adjust all water valves, sewer manholes and other utility vaults to final grades.
- *Mission Lakes Boulevard @ Little Morongo Road:*
 1. Developer shall after completion of paving operations, install stripping and signage in accordance with approved plans and City of Desert Hot Springs Standard Specifications.

Bonds

- A developer bond is designed to ensure the completion of the public improvements. The developer bonds afford the developers and builders an opportunity to record the subdivision plats and begin transaction in the absence of the completed required public improvements. Developers bond has two categories; one is subdivision bond and other is improvement bond. This bond typically guarantees that all requirements will be completed. These securities are enforced per City Zoning Code Section 159.30.230. In the absence of a development agreement, there is a two year window in which these improvements must be completed.

"In the event that the subdivider fails to complete all improvement work in compliance with the provisions of this Section and the improvement agreement, and the City shall have to complete the same, the City shall call on the security for funds necessary to complete the improvement as reimbursement or shall appropriate from any cash deposit funds for reimbursement. If the amount of any security shall be less than the cost and expense incurred by the City, the subdivider shall be liable to the City for such difference. Any cash remaining in the possession of the City after completion of the improvement, shall be returned to the originator minus normal administrative costs."

- However, in this case it appears that security was not provided for the public improvements associated with the Village at Mission Lakes. Although the conditions of approval require security for the public improvements, we are unable to locate any bonds in the project file. We requested information from the previous City Engineer and received the following explanation:

"The Village at Mission Lakes was originally part of a large parcel map for Ashford Communities. It was Tract 31540. When they separated the owners and sold that particular parcel, new agreements were not made. These agreements were never executed, except for the grading. Then they stopped building, period. At this point, I left the City and do not know what else occurred in late 2006. I know that the building department issued permits before water and sewer plans and other street plans were not even approved yet, so this may have been how these bonds got missed." -Dan Patneaude.

Impact Fees

- Impact fees were deferred in lieu of irrevocable letters of credit issued by Estate Financial in the amount of \$208,486.22 (expires 02/20/09) and \$51,026.17 (expires 04/13/09). The impacts fees were deferred to the point of occupancy. The City has been notified that Estate Financial has declared bankruptcy. Calls have been made to Estate Financial with no return phone calls as of Friday July 11, 2008.

Mission Springs Water District

- All water and sewer plans are signed and complete. All material (vcp pipe etc.) that was on site was rejected and is not allowed to be used. The easements are drafted for all the water and sewer pipes and appurtenances. (It is a public system on a private development) MSWD requires all infrastructures to be in an easement. These easements still need to be recorded. The Water District is owed \$3,734.48 in unpaid plan check and inspection fees.

Code Enforcement

- As an unfinished, vacant or abandoned project, the current development project is an attractive nuisance and as such represents a public nuisance. Violations currently exist on the project that can initially be addressed in a letter or Notice of Violation.
- Should voluntary compliance not be obtained within the window time frame, or an extension is granted, an Administrative Citation can be issued.
- An Administrative Citation can be issued for violation of the Desert Hot Springs Municipal Code and can be issued as an infraction or as a misdemeanor in many cases. Administrative Citations can be issued for each day a violation is continued and considered a separate violation.
- Code Enforcement can conduct In-Office Conferences with the Property Owner(s) and or Tenant(s) to attempt to resolve serious and complex cases. This is usually a resource utilized prior to criminal action being taken.
- An Abatement Warrant can be requested in cases where the nuisance has continued for a long period, without voluntary compliance or resolution by the Property Owner(s). Such a warrant can also be applied for in cases where health, safety and welfare to the general public are of concern.
- In abatement, consideration is taken to determine if the property and/or structures can be an asset or if the abatement (removal) of any improvements or damaged structures ultimately benefits the neighborhood and community. Also considered is how long the project will potentially sit in an unfinished condition. Currently, we have conditions that may remain unfinished or vacant for up to eighteen (18) months after their last inspection.
- Staff can work with the Property Owner(s) to establish a progressive work plan to focus and resolve specific issues over a longer period. This exhibits our willingness to work with the public and obtain compliance. This is a very productive tool with a very successful history.
- An Attorney Referral can be made recommending Civil or Criminal actions be taken in the matter.

Sincerely,



Steven A. Mendoza
Assistant City Manager/Community Development Director

cc: Rick Daniels, City Manager
Jonathan Hoy, Public Works Director
Fred Andree, Code Enforcement Supervisor

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