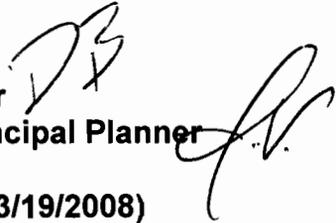


**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Planning Director
Prepared By: Joseph R. Vacca, Principal Planner



DATE: February 21, 2008 (CC Meeting of 03/19/2008)

SUBJECT: Consider Report of Annual Development Agreement Review, Established in Connection with Vistas at Moorpark, Located on the West Side of Walnut Canyon Road, Approximately 3,500 Feet North of Casey Road, on the Application of Moorpark 150, LLC

BACKGROUND

Government Code Section 65864 and City of Moorpark Municipal Code Section 15.40 provide for Development Agreements between the City and property owners in connection with proposed plans of development for specific properties. Development Agreements are designed to strengthen the planning process, to provide developers some certainty in the development process and to assure development in accordance with the terms and conditions of the agreement.

On January 21, 2004, the Moorpark City Council adopted Ordinance No. 299 (effective February 20, 2004), approving a Development Agreement between the City of Moorpark and Moorpark 150, LLC, (formerly managed by SunCal Companies). The agreement was approved in connection with the Tract No. 5130/RPD 1998-02, a 110 unit single-family residential development located east of Walnut Canyon Road north of Wicks Road. The agreement remains in full force and effect for twenty (20) years from the operative date of the agreement (until February 20, 2024), or until the close of escrow on the initial sale of the last Affordable Housing Unit, whichever occurs last. While the entity which owns the subject property and which is a party to the Development Agreement has not changed, there has been a change in the management of that entity. Prior to December, 2006, LSOF Moorpark Land, L.P. ("LSOF") owned 95% of the member interests in Moorpark 150, LLC. In December 2006, LSOF acquired the 5% interest previously held by Moorpark Equity Partners, Ltd., an affiliate of the SunCal Companies.

Provisions of the agreement require an annual review and report to the City Council on the status of completion of all aspects of the agreement. This is the fourth annual review of the Development Agreement with Moorpark 150, LLC. Hudson Advisors, on behalf of Moorpark 150 LLC, has submitted the necessary application form, related materials, and fee/deposit for the 2008 annual review. The Planning Director has reviewed the submitted information and the project status and provides the following report.

DISCUSSION

Current Project Status

- The developer has provided condition compliance deposits and has submitted the final map, grading plans, and drainage and street improvement plans for engineering plan check. The plans and maps should be reaching final review state.
- Efforts to obtain right of entry permission for work on Walnut Canyon Road continue.
 - Nineteen (19) of the twenty (20) required temporary construction easements have been obtained;
 - Twelve (12) of the thirteen (13) necessary sidewalk easements have been obtained and;
 - All of the six (6) required storm drain easements have been obtained from homeowners along that street.

[All that is needed is one more temporary construction easement and one more sidewalk easement in order to proceed with construction]

- Caltrans plans for work in the state right-of-way along State Route 23, have been approved and an encroachment permit for the required work has been issued and all necessary permits for construction are in place.
- Communications with city staff on affordable housing options continue.
- Necessary weed abatement and erosion control efforts have been maintained on site.
- Processing of the Landscape Maintenance District is nearly complete.
- A Community Facilities District for the project has been approved by the City Council but has not yet been formed.
- On March 29, 2006, the Community Development Director approved Permit Adjustment No. 1 to Residential Planned Development No. 1998-02; and Tentative Tract Map No. 5130; to change only the timing language of

condition number 20 of City Council Resolution Number 2003-2150, (which stated that: Prior to issuance of a Certificate of Occupancy for the first dwelling unit, construction of roadway improvements to Walnut Canyon Road shall be completed to the satisfaction of the City Engineer). The approval letter of Permit Adjustment No. 1, included the following conditions:

- Only the timing language of Resolution No. 2003-2150- Condition No. 20 shall be changed to state that Construction of roadway improvements to Walnut Canyon Road shall be completed to the satisfaction of the City Engineer/Public Works Director by November 8, 2008, or prior to occupancy of the fiftieth (50th) residential unit, whichever comes first; the remainder of the language in Condition No. 20 shall remain in full force and effect as originally adopted.
- The developer shall overlay the paving on Wicks Road consistent with city standards, to the satisfaction of the City Engineer/Public Works Director by November 8, 2008, or prior to occupancy of the fiftieth (50th) residential unit, whichever comes first.

Developer Compliance with Terms of Agreement

The developer's responsibilities are included in Section 6 of the Development Agreement and include twenty-four (24) specific requirements, as summarized below. Compliance with the terms and conditions of the Development Agreement will occur at various stages of the development process. Action by the developer and other clarifying information has been noted.

NO.	REQUIREMENT	STATUS
1.	Developer shall comply with the Agreement, subsequent project approvals and Mitigation Monitoring Program.	Developer is in compliance with all requirements at this time.
2.	All lands and interests in land shall be dedicated free and clear of liens and encumbrances.	To be granted at Final Map approval.
3.	Payment of "Development Fees" of eight-thousand-six-hundred-thirty-five dollars (\$8,635.00) per residential unit and thirty-eight-thousand-eight-hundred-fifty-eight dollars (\$38,858) per gross acre of institutional land.	These fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
4.	Payment of "Citywide Traffic Fees" of four-thousand-six-hundred-sixty-four dollars (\$4,664.00) per residential unit and twenty-thousand-nine-hundred-ninety-eight dollars (\$20,998) per acre of institutional land.	Beginning January 1, 2005, these fees will be adjusted annually (until paid) using the State Highway Bid Price Index in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.

NO.	REQUIREMENT	STATUS
5.	Payment of "Community Service Fees" of two-thousand-two-hundred-thirty-three dollars(\$2,233.00) per residential unit and seven-thousand-seventy dollars (\$7,070) per gross acre of institutional land.	Beginning January 1, 2007, these fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
6.	Payment of all outstanding processing costs.	This is an ongoing requirement. At this time the developer is current with all processing costs, including submittal of Annual Review Application and deposit for Development Agreement - Annual Review.
7.	Payment of a fee in lieu of park dedication "Park Fee" of ten-thousand-eighty dollars (\$10,080.00) per residential unit and fifty cents (\$0.50) per square foot of each building used for institutional purposes.	These fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
8.	Prior to Final Map recordation, confirmation from Ventura County Waterworks District No. 1 that sufficient recycled water is available to serve public and community owned landscape areas. Design and construction of facilities required to deliver the reclaimed water to the project, and payment of any connection/meter fees required by the District.	If determined necessary, these improvements will be included in the Water Works District No. 1 improvement plan package and will be bonded for prior to recordation of the Final Map. At the present time, no connection points exist within the vicinity of the project. Moorpark 150, LLC has indicated that they are preparing to hire a consultant to precisely locate the Ventura Waterworks District No. 1 water line within the right-of-way.
9.	Grant a conservation easement to the City for lots A, B, C, O and P. Lots A, B and P may include wetlands, storm water detention and debris basins and related service roads, landscaping and decorative planting areas, sidewalks and trails that do not interfere with the open space uses.	To be recorded with the Final Map for each phase.
10.	Payment of one-hundred-forty—thousand dollars \$140,000.00 to satisfy obligation for upgrading the intersections of Moorpark Avenue (SR 23) at Charles Street and at High Street.	Beginning January 1, 2005, this fee increases by one-half percent (0.05%) each month until paid. The fee must be paid prior to recordation of the first Final Map. No Final Maps have been recorded to date.
11.	Provide five (5) four (4) bedroom and two bath and two (2) three (3) bedroom and two (2) bath single-family detached units with a minimum of 1,200 sq. ft. for low income (80 percent of or less of medium income) Provide four (4) four (4) bedroom and two bath and one (1) three (3) bedroom and two (2) bath single-family detached units with a minimum of 1,200 sq. ft. for very low income (50 percent of	This obligation may be met by a ratio of one and one-half (1-1/2) attached for sale units for each required detached single-family unit. No fees have been collected to date for affordable housing activities.

NO.	REQUIREMENT	STATUS
	<p>or less of medium income)</p> <p>The units shall include amenities as specified in the agreement.</p> <p>City Council approval and execution of an Affordable Housing Implementation and Resale Restriction Plan and an Affordable Housing Agreement, and payment of up to a maximum of nine-thousand dollars (\$9,000) for City's direct costs for preparation of the Plan and Agreement.</p> <p>Three of the low and three of the very low units to be occupied by qualified buyers prior to occupancy of the 50th residential unit in Tract 5130.</p> <p>The remaining low and very low income units shall be occupied by qualified buyers prior to occupancy of the 90th residential unit in Tract 5130.</p> <p>No less than six (6) of the substituted for sale units shall be located within the boundaries of the Moorpark Redevelopment Area.</p> <p>Comply with requirements for home inspection and completion of necessary repairs, including purchase of standard home warranty policy for a three year period. No shake or wood shingle roofs shall be approved.</p> <p>Provide an HOA trust for HOA fees in excess of \$100.00.</p> <p>Comply with purchase price requirements per the agreement.</p> <p>Pay closing costs not to exceed six-thousand dollars \$6,000.00</p>	
12.	<p>Pay Air Quality Fee in the amount of one-thousand-five-hundred-eighty-eight dollars (\$1,588.00) per residential unit, and for institutional uses at a rate calculated by the Community Development Department.</p>	<p>Beginning March 1, 2007, these fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.</p>
13.	<p>Waiver of any density bonus rights that would increase the number of dwelling units approved to be constructed on the property.</p>	<p>Applicant has not requested density bonus units.</p>

NO.	REQUIREMENT	STATUS
14.	<p>Agreement to cast affirmative ballots for formation of one or more assessment districts for maintenance of parkway and median landscaping and street lighting, including but not limited to all water and electricity costs. Agreement to form property owners association(s) to provide landscape, street lighting and park (if necessary) open space land, trails drainage facilities maintenance and compliance with NPDES requirements.</p>	<p>Formation of a Landscape Maintenance District is in process.</p>
15.	<p>Payment of all City capital improvement and processing fees.</p>	<p>Developer is in compliance with all requirements at this time. Fund review ongoing.</p>
16.	<p>Payment of Los Angeles Avenue Area of Contribution (AOC) Fee.</p>	<p>Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.</p>
17.	<p>Payment of seventy-thousand dollars (\$70,000.00) to satisfy Mitigation Measures 2, 5, and 11 for open space acquisition and maintenance, and habitat restoration and preservation.</p>	<p>Must be paid prior to approval of first Final Map. The fee has not yet been paid.</p>
18.	<p>Street improvements for North Hills Parkway designed and constructed for a 50-year life.</p>	<p>To be included with project improvement plans.</p>
19.	<p>Acquire property needed to improve and make improvements to Walnut Canyon Road consistent with Conditions of Approval for Tentative Tract 5130.</p> <p><i>[Condition number 20 of City Council Resolution Number 2003-2150, -originally stated that: Prior to issuance of a Certificate of Occupancy for the first dwelling unit, construction of roadway improvements to Walnut Canyon Road shall be completed to the satisfaction of the City Engineer]</i></p>	<p>The timing language of Condition No. 20 of Resolution No. 2003-2150, which approved Tentative Tract 5130- was adjusted through Permit Adjustment No. 1, to state that Construction of roadway improvements to Walnut Canyon Road shall be completed to the satisfaction of the City Engineer and Public Works Director by November 8, 2008, or prior to occupancy of the fiftieth (50th) residential unit, whichever comes first; the remainder of the language in Condition No. 20 shall remain in full force and effect as originally adopted. Also;</p> <p>The developer shall overlay the paving on Wicks Road consistent with city standards, to the satisfaction of the City Engineer and Public Works Director by November 8, 2008, or prior to occupancy of the fiftieth (50th) residential unit, whichever comes first.</p> <p>These conditions have not yet been satisfied.</p>
20.	<p>Agreement to pay any fees and payments pursuant to this Agreement without reservation.</p>	<p>Developer is in compliance with all requirements at this time.</p>
21.	<p>Agreement to comply with requirements for annual review of the Agreement including evaluation of Mitigation Monitoring Program.</p>	<p>To date, the applicant has complied with review requests and Mitigation Monitoring Program requirements.</p>

NO.	REQUIREMENT	STATUS
22.	Install six-foot (6') to eight-foot (8') high decorative masonry wall and landscaping north of the right-of-way of proposed North Hills Parkway, subject to approval of Ventura County Waterworks District No. 1, Community Development Director and City Engineer.	To be installed prior to the first residential occupancy.
23.	Provide cash deposit for costs related to formation of Community Facilities District.	On September 15, 2004, Moorpark 150 LLC., submitted a \$100,000.00 cash deposit to cover the costs for the creation of the Community Facilities District.
24.	Agreement that any property to be acquired by eminent domain shall be at City's discretion and after compliance with all legal requirements.	No request for property to be acquired by eminent domain has been submitted to date.

All requirements of the Development Agreement will be considered in the City's review and approval process for all aspects of the development; including but not limited to, subsequent entitlement requests, public and private improvements, Final Maps, and building permits.

City Compliance with Terms of Agreement

The City's responsibilities are included in Section 7 of the agreement and include nine (9) specific provisions, as summarized below.

NO.	REQUIREMENT	STATUS
1.	Agreement to commit reasonable time and resources on expedited and parallel processing of application for subsequent applications.	To date, City has complied with any such requests.
2.	If requested, at the developer's cost, proceed to acquire easements or fee title to land in order to allow construction of required public improvements.	To date, no such request has been received.
3.	Authorization for the City Manager to sign an early grading permit.	No early grading permit has been requested to date.
4.	Agreement to process concurrently, whenever possible, all land use entitlements for the same property (so long as deemed complete).	To date, City has complied.
5.	Agreement that Park Fee required per section 6.7 meets obligation for park land dedication provisions of state law and local codes.	To date, City has complied.
6.	Agreement to commence proceedings for Community Facilities District formation and incur bonded indebtedness.	Community Facilities District has been approved.

NO.	REQUIREMENT	STATUS
7.	Agreement to appoint affordable housing staff person to oversee the implementation of affordable housing requirements. Agreement to respond within thirty (30) days on acceptance or rejection of proposed affordable housing unit per subsection 6.11. Agreement that Developer may construct rather than purchase affordable housing units required per subsection 6.11.	The Senior Management Analyst in the Assistant City Manager's Office oversees affordable housing requirements.
8.	Agreement to allow for a variation of five feet (5') maximum in the grades as shown on the Grading Plan exhibit, subject to approval of the Community Development Director/City Council that the overall design and visual quality would not be significantly affected.	Any such requests would have to be processed as Permit Adjustments subject to the approval of the Planning Director.
9.	Agreement to facilitate reimbursement to developer of any costs incurred that may be subject to partial reimbursement from other developers.	To date, no such request has been received.

Evaluation of Good Faith Compliance

Based on a review of the Development Agreement Annual Review Application and the status of the project, the Planning Director has determined, on the basis of substantial evidence that Moorpark 150 LLC. has, to date, complied in good faith with the terms and conditions of the agreement.

FISCAL IMPACT

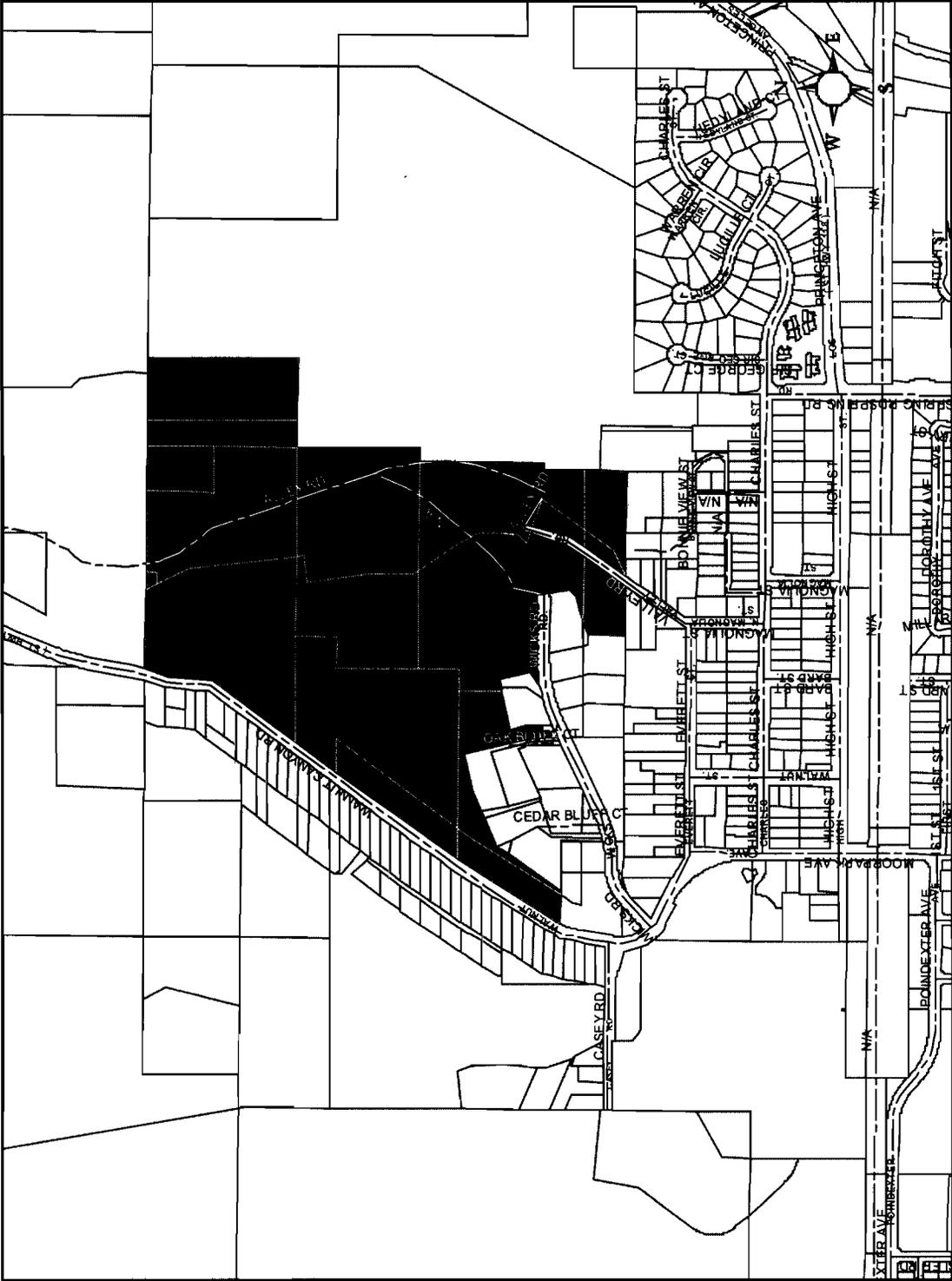
None.

STAFF RECOMMENDATION

1. Accept the Planning Director's report and recommendation, on the basis of substantial evidence, that Moorpark 150, LLC has complied in good faith with the terms and conditions of the agreement.
2. Deem the annual review process complete.

ATTACHMENTS:

1. Location Map
2. Site Map
3. Narrative by Stewart Motley, Vice President, on Behalf of Moorpark 150, LLC.



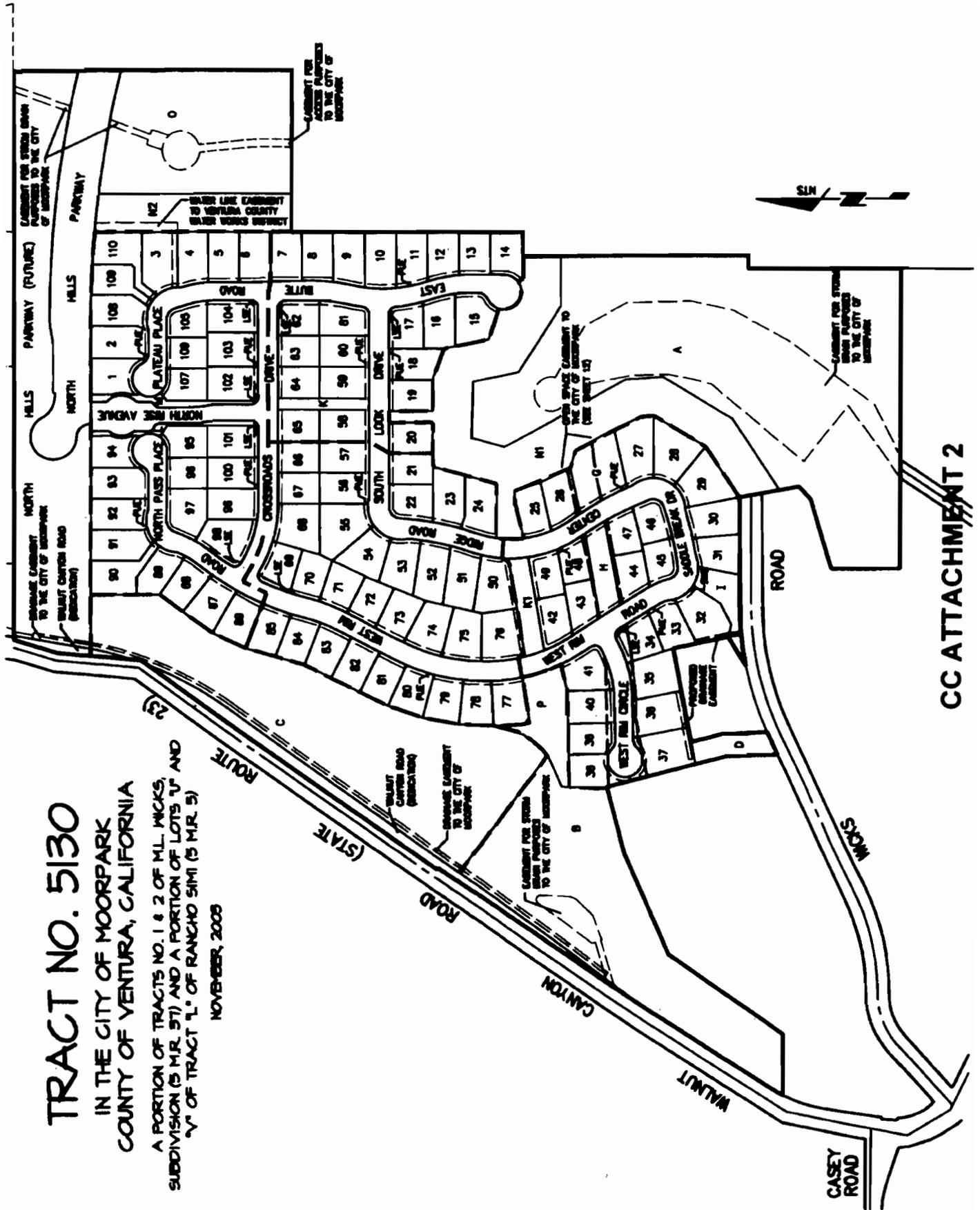
**LOCATION MAP
CC ATTACHMENT 1**

TRACT NO. 5130

IN THE CITY OF MOORPARK COUNTY OF VENTURA, CALIFORNIA

A PORTION OF TRACTS NO. 1 & 2 OF M.L. WICKS,
SUBDIVISION (S.M.R. 57) AND A PORTION OF LOTS 17 AND
18 OF TRACT "L" OF RANCHO SIMI (S.M.R. 5)

NOVEMBER, 2009



CC ATTACHMENT 2

MOORPARK 150, LLC

2711 N. Haskell, Suite 1800
Dallas, TX 75204

February 13, 2008

Joseph R. Vacca, Principal Planner
Community Development Department
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Re: Tentative Tract 5130 – Development Agreement

Dear Mr. Vacca:

On behalf of Moorpark 150, LLC, the owner and developer of the property contained within Tentative Tract 5130, I would like to provide the City of Moorpark with a status report on the project. This report is submitted in connection with the annual review required by Section 9 of the Development Agreement between the City and the developer, dated July 9, 2004. The formal application for this review, along with the required exhibits and a fee of \$2,400, are enclosed.

The Development Agreement does not mandate any particular schedule of performance by the developer. However, in response to the City's request, I wish to make you aware of the following areas of progress since the date of the previous annual review:

1. Significant progress has been made toward approval and recording of the final subdivision map. Plans for streets, storm drains and sanitary sewers all are undergoing final plan check by the City Engineer. The final map itself has been revised in accordance with comments from the City, and will be resubmitted shortly.
2. The rough grading plan has been reviewed and approved by the City Engineer.
3. The California Department of Transportation and Ventura County Waterworks No. 1 have approved the final configuration for reconstruction of portions of Walnut Canyon Road. An encroachment permit for the required work has been issued by CalTrans. All sidewalk and sewer easements required for those road improvements have been obtained and are being reviewed by city staff.
4. Landscape plans, as well as wall and fence plans, have been reviewed and approved by the City.
5. Proceedings to form a landscape maintenance district are in progress. Proceedings to form a community facilities district have been completed, and the district will be activated at the appropriate time.

Joe Vacca, Principal Planner
Community Development Department
City of Moorpark
February 13, 2008
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6. Design work has been completed for the portion of North Hills Parkway adjoining the project, and is being reviewed by the City Engineer.

7. Environmental permits are being processed with state and federal agencies, and all are expected to be in place within the next few months.

8. We are working closely with city staff to identify and secure desirable sites for the affordable housing units required in connection with the project.

Although we are making steady progress in preparing to commence development, current economic conditions make it uncertain when it will be advantageous to bring the project to market. We will keep city officials and staff informed of our plans.

I understand that you intend to present the current Development Agreement review to the City Council in the coming month. Please provide Paul Cooper with a copy of your staff report as soon as it is available, and let him know when this matter will be on the City Council agenda. Mr. Cooper will be happy to provide you with any further information which you need to complete your report.

Sincerely,

MOORPARK 150, LLC

By: 

**Stewart Motley
Vice President**