

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Barry K. Hogan, Community Development Director  
Prepared By: Laura Stringer, Administrative Services Manager

**DATE:** January 3, 2006 (CC Meeting of 1/18/2006)

**SUBJECT:** Consider Report of Annual Development Agreement Review, Established in Connection with Moorpark Highlands Specific Plan No. 2, a Master Planned Community, Located East of Walnut Canyon Road and North of Charles Street, on the Application of Pardee Homes

**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 October 6, 1999, the Moorpark City Council adopted Ordinance No. 263 (effective November 5, 1999), approving a Development Agreement between the City of Moorpark and Fountainwood Agoura (Morrison-Fountainwood-Agoura). The agreement was approved in connection with Moorpark Highlands Specific Plan No. 2; a 445-acre, master planned community, located east of Walnut Canyon Road and north of Charles Street. The agreement remains in full force and effect for twenty (20) years from the operative date of the agreement (until November 5, 2019), or until the close of escrow on the initial sale of the last Affordable Housing Unit, whichever occurs last.

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. The 2004 annual review was completed on January 5, 2005. Pardee Homes (successor in title) has submitted the necessary application form, related materials, and fee/deposit for the 2005 annual review. The Community Development Director has reviewed the submitted information and the project status and provides the following report.

## **DISCUSSION:**

### **Current Project Status**

The following aspects of Specific Plan No. 2 were completed since the last Development Agreement Annual review:

- RPD and Zoning Ordinance Amendment (ZOA) applications for Planning Areas 5, 8 and 9 were approved by City Council on April 6, 2005.
- The Implementation Plan was approved by City Council on April 20, 2005.
- Rough grading plans and all utility, street and storm drain improvement plans have been approved and the majority of this construction has been completed.
- An agreement with Moorpark Unified School District was reached on November 18, 2005.
- Street names were approved on September 21, 2005.
- Final Maps for Tract No. 5045-1, -2 and -3 were approved by City Council on October 5, 2005 and were recorded on December 22, 2005.
- Model Homes for Planning Areas 1 and 4 were approved and construction is nearly complete. Grand opening is tentatively scheduled for January 21, 2006.
- Model Homes for Planning Areas 2 and 3 were approved and construction is expected to begin January 30, 2006, with anticipated completion in June 2006.
- The fine grading/site plan for Planning Area 4 has been approved and the fine grading/site plan for Planning Area 1 is in final review.
- The Affordable Housing Purchase and Sale Agreement has been completed and submitted to Pardee for signature.

The following aspects of Specific Plan No. 2 are currently underway:

- The off-site Spring Road wall plans are being prepared for conceptual review by staff prior to final review by City Council. Pardee is in the process of acquiring rights-of-entry from affected property owners' to construct the wall. Staff will be working with Pardee to address property owner questions.
- Final Maps for Tract No. 5045 -4, -5, -6, -7 and -8 are currently in review.

### **Developer Compliance with Terms of Agreement**

The developer's responsibilities are included in Section 6 of the Development Agreement and include thirty-two (32) 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.	Compliance with Development Agreement, project approvals and subsequent approvals.	To date the developer is in compliance with this requirement.
2.	Land dedicated to the Moorpark Unified School District (MUSD) to be deed restricted by covenant to limit use of the land to school facilities for kindergarten through 12 <sup>th</sup> grade.	An agreement with Moorpark Unified School District was reached on November 18, 2005.
3.	Lands and interests in dedicated lands to be free of liens and encumbrances.	The developer must provide clear title to any property required for dedications. Final Maps are being reviewed for compliance with this requirement.
4.	Payment of "Development Fees" of seven thousand three hundred dollars (\$7,300) per residential unit and thirty two thousand eight hundred dollars (\$32,800) 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. This fee has been paid for model homes in Planning Areas 1-4. Cost indexing will commence one year after issuance of first model home building permit, which was issued August 18, 2005.
5.	Payment of "Citywide Traffic Fees" of four thousand dollars (\$4,000) per residential unit and eighteen thousand dollars (\$18,000) per acre of institutional land.	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. This fee (as indexed) has been paid for model homes in Planning Areas 1-4.

NO.	REQUIREMENT	STATUS
6.	Payment of "Community Service Fees" of five hundred dollars (\$500) per residential unit and two thousand two hundred fifty dollars (\$2,250) 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. This fee (as indexed) has been paid for model homes in Planning Areas 1-4.
7.	Granting of a conservation easement to the City to retain the Open Space lots within Planning Areas 10, 11, 14, 15 and 16, allowing only those uses permitted in the Development Regulations of the Specific Plan Open Space Zones.	The conservation easement was included on the Final Map for Tract No. 5045-1.
8.	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.
9.	Dedication of approximately seven (7) acres of parkland to the City, including construction of park improvements, as detailed in the agreement.	Dedication of the park site was included on the Final Map for Tract No. 5045-1. The improvements to the park are to be completed prior to occupancy of the 350 <sup>th</sup> dwelling unit. Prior to occupancy of the 500 <sup>th</sup> residential unit, the developer shall also submit a cash deposit of \$350,000 to fund replacement of park amenities. Review of the park plans is pending coordination with Moorpark Unified School District.
10.	Construct public streets adjacent to school and park sites.	The improvements were included in the improvement plan package and construction is nearly complete.
11.	Construct appropriately sized water line, pumping facilities, and storage facilities for recycled water.	At the present time, no connection points exist within the vicinity of the project.

NO.	REQUIREMENT	STATUS
12.	Dedication of greenbelt, open space areas, landscape areas, and trails to the City. Such areas not dedicated to the City shall include a conservation easement to the City.	The trails, greenbelts and open space areas were included on the Final Maps for No. 5045-1, -2 and -3. Final Maps for Tract No. 5045-4 through 8 are currently being reviewed for these areas. The trails are also included on the rough grading plan and landscape plans.
13.	Grant a conservation easement to the City for Planning Areas 12 and 13 to insure public open space.	The conservation easements were included on the Final Map for Tract No. 5045-1.
14.	<p>Prior to recordation of the first final map, provide a City Council approved Affordable Housing Implementation and Resale Restriction Plan (Plan) with provisions for:</p> <p>Buyers who meet the criteria for low income (80% of median income):</p> <p>Twelve (12) three (3) bedroom and two (2) bath units no less than 1050 square feet in size.</p> <p>Thirteen (13) four (4) bedroom and two (2) bath units at no less than 1425 square feet in size.</p> <p>Prior to occupancy of the first residential unit, execute an Affordable Housing Agreement that incorporates the Plan.</p> <p>Pay City's direct cost, up to five thousand dollars (\$5,000) for preparation and review of the Implementation and Resale Restriction Plan and Agreement.</p> <p>Payment of In-Lieu Fees of three thousand, five hundred dollars (\$3,580) per unit (for each of the dwelling units in the project).</p>	<p>A Purchase and Sale Agreement in lieu of an Affordable Housing Agreement has been prepared and submitted to Pardee for signature.</p> <p>The \$5,000 payment has been received.</p> <p>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</p>

NO.	REQUIREMENT	STATUS
		Clearance for Building Permit. This fee (as indexed) has been paid for model homes in Planning Areas 1-4.
15.	Agreement to Mitigation Measures included in the Final Environmental Impact Report (EIR) including payment of "Air Quality Fee" to be calculated as a condition of the issuance of building permit for each unit.	Community Development staff will provide the lead in Mitigation Monitoring. Air Quality Fees (TSM) will be calculated and collected prior to Zoning Clearance for Building Permit. This fee (as calculated using URBEMIS) has been paid for model homes in Planning Areas 1-4.
16.	Installation of block wall fencing and landscape screening along the east side of Spring Road along the rear of the homes on Sir George Court.	A conceptual plan is being prepared for staff review. Installation of the walls is to occur prior to first final building permit/occupancy for Phase 1 of the Specific Plan development.
17.	Submit and gain approval from City Council of a plan to guarantee the agreements contained in Section 6.	An Implementation Plan was approved by City Council on April 20, 2005.
18.	Install traffic signals as determined by the City.	Design of traffic signals have been included in a City contract, but paid for the Pardee. The signals will be bonded for prior to final approval by the City. Construction will proceed as determined by the City.
19.	Waive rights to any density bonus that would increase the number of dwelling units approved per Specific Plan No. 2.	To date, the developers have complied with this requirement.
20.	Agreement to cast affirmative ballot for formation of an assessment district for maintenance of parkway and median landscaping, street lighting, and parks.	To date, the developers have complied with this requirement.
21.	Agreement to pay all City capital improvement, development and processing fees.	Per this Agreement and Conditions of Approval.
22.	Formation of one (1) or more property owners associations to assume ownership and maintenance of open space land, trails, and other amenities.	These requirements will be included in the CC&Rs prepared for the project. The CC&Rs are to be reviewed and approved by the City Attorney and staff prior to final recordation

NO.	REQUIREMENT	STATUS
23.	Provide irrevocable offer of dedication to the City for the future rights-of-way for State Route 23 and State Route 118.	The offer was included on the Final Map for Tract No. 5045-1
24.	Provide vehicular access to properties west of Spring Road.	These access rights are shown on Final Map Tract No. 5045-1. A grant deed is required for the private access easement. Construction of access improvements are in progress.
25.	Construct a solid block wall to replace existing block wall/wrought iron fence along the Spring Road and Charles Street frontages (if deemed necessary by the City).	A determination of a need for the wall has not yet been made.
26.	Remove existing block walls/fences and construct a solid decorative block wall along the west side of Spring Road.	The off-site Spring Road wall plans are being prepared for conceptual review by staff prior to final review by City Council. Pardee is in the process of acquiring rights-of-entry from affected property owners' to construct the wall. Staff will be working with Pardee to address property owner questions.
27.	Provide irrevocable offer of dedication to the City for ultimate build out of "Old" Los Angeles Avenue (Princeton Avenue) improvements and Spring Road improvements not required to be constructed by the developer.	The offer of dedication for Princeton Avenue was included on Final Map of Tract No. 5045-1. All Spring Road improvements are being constructed by Pardee, and required dedications have either been shown on the final map or were acquired by Pardee for the City by separate instrument.
28.	Acquire the property needed to improve the intersection of Charles Street and Spring Road and provide improvements as determined by the City.	The developer has acquired the necessary property. Utility construction is currently underway, and street improvements will follow.
29.	Provide irrevocable offer of dedication to the City for right-of-way for the extension of "C" Street.	Irrevocable offer of dedication to the City was included for recordation of Final Map Tract No. 5045-1.

NO.	REQUIREMENT	STATUS
30.	Construct a public trail system as identified in the Specific Plan, including a cash deposit of one hundred fifty thousand dollars (\$150,000) to fund the maintenance of the trail system.	These improvements are required as part of Final Map review. Those within map phases 1, 2 and 3 were shown on the Final Maps. Those in map phases 4-8 will be included on the Final Maps. The required \$150,000 deposit is due prior to occupancy of the 500 <sup>th</sup> unit.
31.	Provide irrevocable offer of dedication to the City for Planning Area 17.	The dedication was included on the Final Map for Tract No. 5045-1.
32.	Payment of one hundred twenty five thousand dollars (\$125,000) to satisfy the Final EIR Transportation/Circulation Mitigation Measure 2, and for the developer's share of contribution to intersection improvements at Los Angeles Avenue and Tierra Rejada Road.	To be included with Mitigation Monitoring requirements. The required deposit has not yet been submitted, but is due prior to occupancy of the first residential unit.

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 twelve (12) specific provisions, as summarized below.

NO.	REQUIREMENT	STATUS
1.	Commit necessary time and resources on expedited parallel processing for subsequent approvals.	The RPD's, ZOA's and Modification to the Tentative Tract Map were processed concurrently as they are submitted.
2.	Commence proceedings to form a Mello-Roos Community Facilities District, upon receipt of landowner's petition and payment of fee.	A Community Facilities District is currently in the process of formation, subject to final approval by the City Council.

NO.	REQUIREMENT	STATUS
3.	Proceed to acquire, if requested, and at developer's sole cost and expense, easements or fee title to land not held by the developer, but necessary for construction of required improvements.	The developer has acquired the necessary property.
4.	Authorization for City Manager to sign an early grading agreement.	An Early Grading Agreement has been executed, and mass grading has been completed.
5.	Agreement to allow concurrent processing of land use entitlements for the same property, so long as, deemed complete.	Concurrent processing has been done.
6.	Agreement that the land and improvements required under subsection 6.9. of the Development Agreement meet the developer's obligation for park land dedication for the designated 570 units.	Per this Agreement.
7.	Agreement to allow the developer to receive the maximum amount of tax benefit for dedication of public open space in Planning Areas 12 and 13.	Pending dedication of public open space area.
8.	Agreement to appoint an affordable housing staff person to oversee the implementation of the affordable housing requirements.	Nancy Burns, Senior Management Analyst, is the City's housing coordinator.
9.	Agreement to allow for a variation of five feet (5') maximum in grades as shown on the grading exhibit for Specific Plan No. 2, subject to approval of the Community Development Director.	Per this Agreement.
10.	Agreement to limit the payment of the Los Angeles Avenue Area of Contribution (AOC) fee to only the first four hundred seventy five (475) residential units and any institutional uses within the project. The AOC fee shall be the amount in effect at the time of issuance of building permit.	AOC fees have been collected for all units at the recently updated rate of \$5,913 per unit.
11.	Agreement to facilitate the reimbursement to the developer of costs incurred that may be subject to partial reimbursement from other developers.	Pending construction of potentially reimbursable improvements. No request has been submitted to date.

NO.	REQUIREMENT	STATUS
12.	Agreement that the developer shall not be required to pay the Gabbert Road/Casey Road Area of Contribution Fee referenced in the Final EIR. (Specific Plan No. 2 is not within the boundaries of this AOC).	Per this Agreement.

Evaluation of Good Faith Compliance

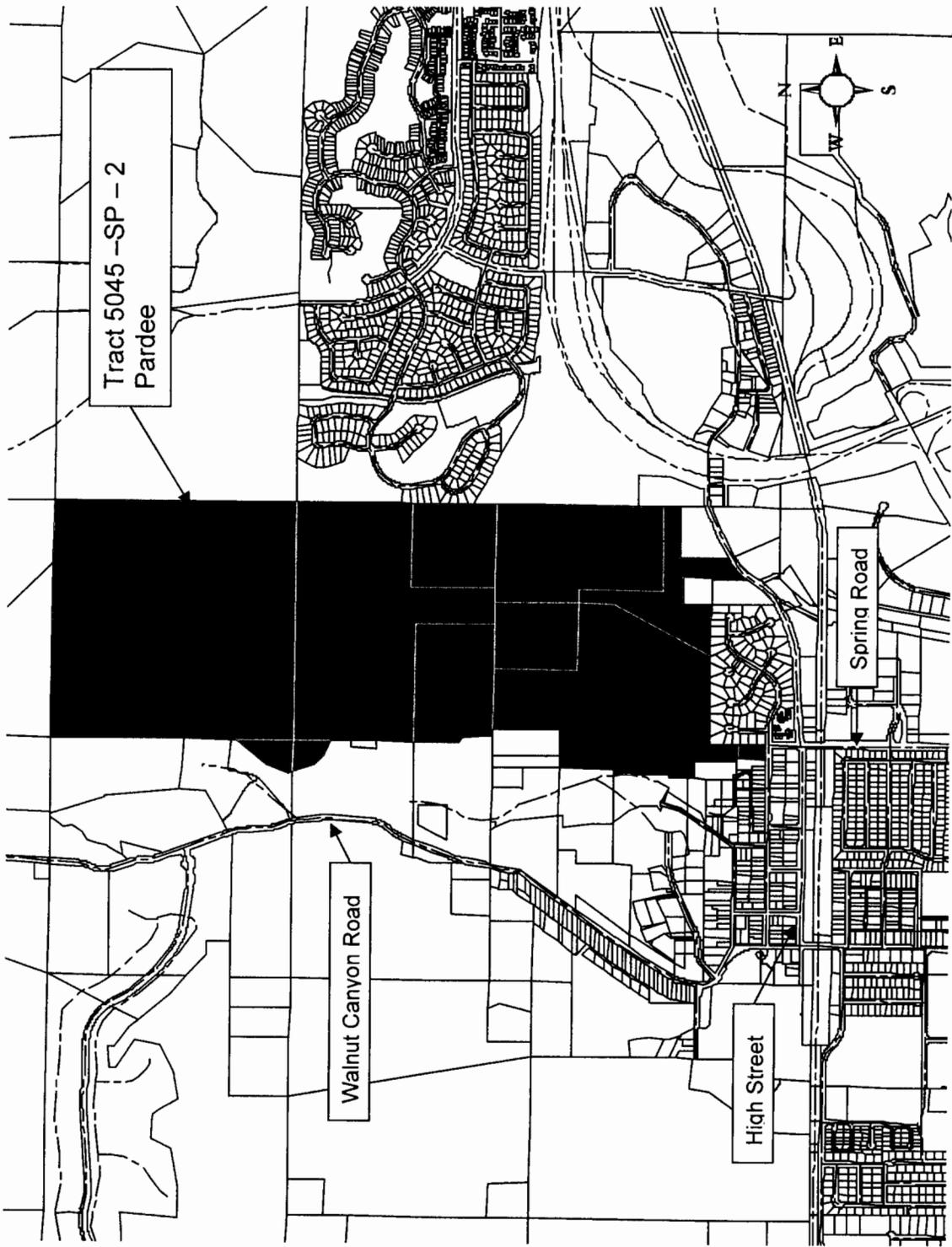
Based on a review of the Development Agreement Annual Review Application and the status of the project, the Community Development Director has determined, on the basis of substantial evidence that Pardee Homes has, to date, complied in good faith with the terms and conditions of the agreement.

**STAFF RECOMMENDATION:**

1. Accept the Community Development Director's report and recommendation that, on the basis of substantial evidence, Pardee Homes 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 Plan
- 3) Letter from Pardee Homes, dated October 17, 2005.

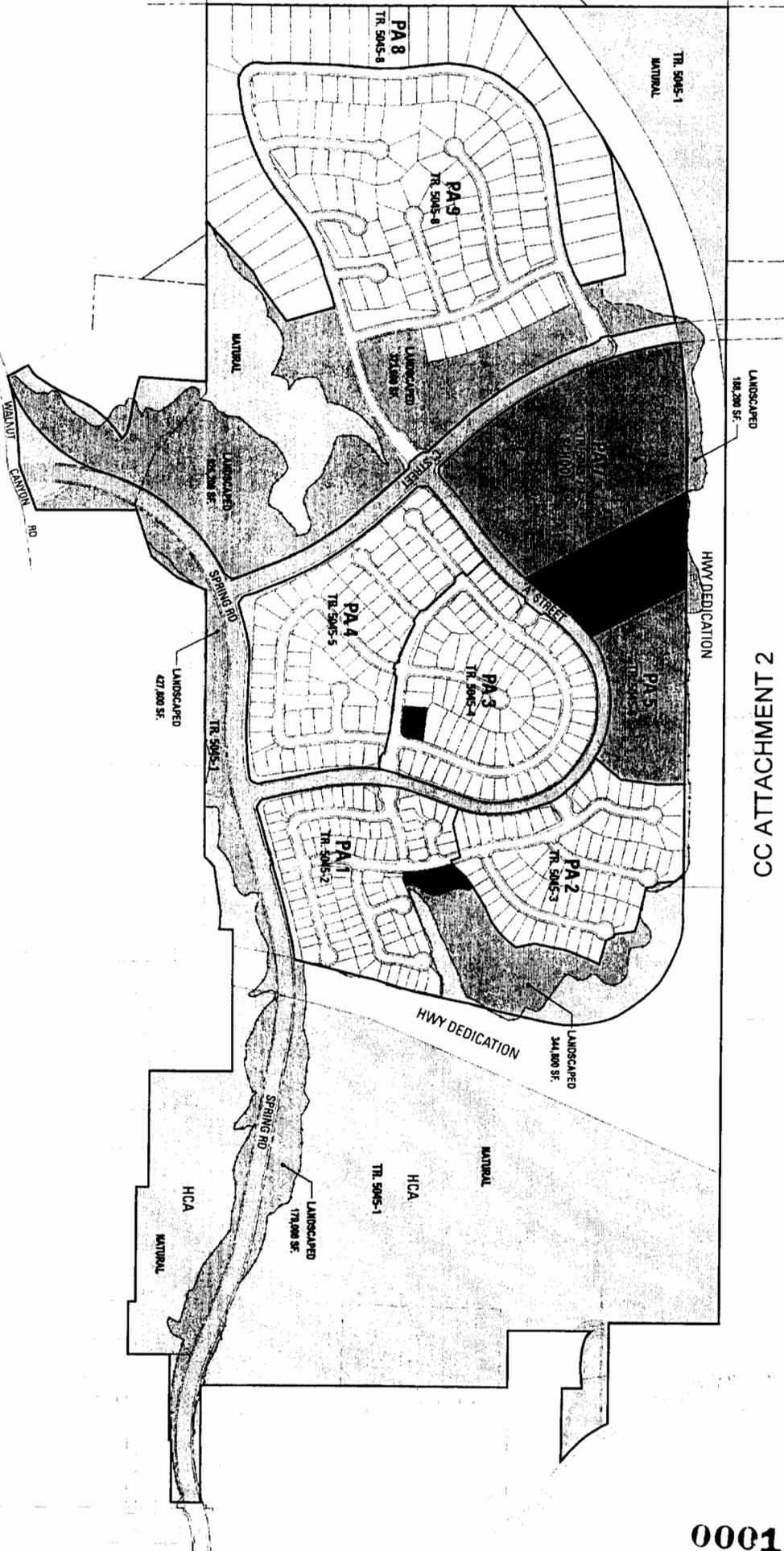


**LOCATION MAP  
CC ATTACHMENT 1**



000123

CC ATTACHMENT 2



TR 5045-1 MAJORS	0 Units
Habitat Conservation Area	101.3 Ac
Hwy Dedication	47.1 Ac
Private Open Space	27.0 Ac
Major Roads	27.0 Ac
TOTAL = 202.4 Ac	
PA 1 TR 5045-2 SF Residential	95 Units
Residential Area	177 Ac
Detention Basin	13.3 Ac
Recreation Area	0.8 Ac
TOTAL = 318 Ac	

PA 2 TR 5045-3 SF Residential	71 Units
Residential Area	181.1 Ac
TOTAL = 181.1 Ac	
PA 3 TR 5045-4 SF Residential	76 Units
Residential Area	216 Ac
Recreation Area	5 Ac
TOTAL = 221 Ac	
PA 4 TR 5045-5 SF Residential	78 Units
Residential Area	237 Ac
TOTAL = 237 Ac	

PA 5 TR 5045-6 MF Residential	102 Units
Residential Area	8.5 Ac
TOTAL = 8.5 Ac	
PA 6 TR 5045-7 Park	0 Units
Park Area	7.1 Ac
TOTAL = 7.1 Ac	
PA 7 TR 5045-7 School	0 Units
School Area	219 Ac
TOTAL = 219 Ac	

PA 8 TR 5045-8 SF Residential	37 Units
Residential Area	28.4 Ac
TOTAL = 28.4 Ac	
PA 9 TR 5045-8 SF Residential	95 Units
Residential Area	45.3 Ac
Open Space Area	47.1 Ac
TOTAL = 92.4 Ac	

TOTAL UNITS = 554 UNITS  
TOTAL AREA = 456 ACRES

NOTE: Landscaped Area from Title 10,000  
Set 1, and not shown on the EIR  
**MOORPARK HIGHLANDS**  
03-17-2003

RECEIVED  
OCT 28 2005  
CITY OF MOORPARK



October 17, 2005

Ms. Laura Stringer  
Senior Management Analyst  
**City of Moorpark**  
799 Moorpark Road  
Moorpark, California 93021

**RE: Annual Review of Development Agreement  
Moorpark Highlands, Specific Plan No. 2**

Dear Ms. Stringer:

I have enclosed the completed above referenced application.

1. The Development Agreement became effective on November 5, 1999. Project Entitlements include:
  - a. The Specific Plan and Zoning Code Amendment became effective November 5, 1999.
  - b. The Local Agency Foundation Commission (LAFCO) approved the annexation of Specific Plan No. 2 to Ventura County Water Works District No. 1 on May 17, 2000.
  - c. The Planning Commission approved Tentative Map 5045 on May 26, 2000.
  - d. The City Council approved Tentative Map 5045 on August 2, 2000.
  - e. The Developer has paid all costs associated with processing and its' account with the City is current.
  - f. January 13, 2004 City approved Permit Adjustment No. 1 (modification) to Tentative Tract Map 5045.
  - g. March 3, 2004 City Council concurs that Condition CDD-45 of Resolution 2000-1767 for Habitat Conservation Plan has been fulfilled; as there are no gnatcatchers or habitat existing on the site.
  
2. The following items are now completed or underway:
  - a. Final Tract Maps 5045-1, -2 and -3 were approved by the City Council on October 5, 2005 and are moving onto recordation.
  - b. Remaining Final Tract Maps 5045-4, -5, -6, -7, and -8 are ready to be placed on the City Council Agenda for approval.
  - c. All RPD and Related Specific Plan Amendment approvals for the project are complete.
  - d. The Rough Grading Plans and all Improvement Plans; (street, sewer, water, storm drain and wall plans) are approved.
  - e. Model Homes for Planning Areas 1 (Tract 5045-2); and PA 4, (Tract 5045-5); are under construction. A temporary sales office is in place at the project entrance.

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City of Moorpark  
October 17, 2005  
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- f. The majority of storm drain, sewer and water improvements have been constructed. A good portion of the streets are paved.
3. The Developer is in good faith compliance with the Development Agreement.

Please do not hesitate to contact me if you have any questions or require additional information.

Very truly yours,



James R. Beck  
Land Development Manager  
Pardee Homes

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