

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: The Honorable City Council

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

DATE: March 7, 2006 (CC Meeting of 04/05/06)

SUBJECT: Consider Report of Annual Development Agreement Review for 9.0 Acres of Land Located West of Gabbert Road North of the Union Pacific Railroad Right-of-Way (Southern California Edison Company)

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 December 16, 1998, the Moorpark City Council adopted Ordinance No. 250 (effective January 15, 1999), approving a Development Agreement between the City of Moorpark and Southern California Edison Company (SCE). The agreement was approved in connection with General Plan Amendment (GPA) No. 97-02 and Zone Change (ZC) No. 97-06, for approximately nine (9) acres owned by Southern California Edison adjacent to a proposed thirty-four and one-half (34.5) acre industrial development (A-B Properties). These properties are located approximately 1,300 feet west of Gabbert Road, north of the Union Pacific Railroad right-of-way. The Development Agreement remains in full force and effect for twenty (20) years from the operative date of the agreement (until January 15, 2019).

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 developer has submitted the necessary application forms, related materials, and fees/deposits. The Community Development Director has reviewed the submitted information, including the project status and provides the following report.

DISCUSSION:

Project Status

Tentative Tract No. 5147, a seventeen (17) lot subdivision proposed by A-B Properties, was conditionally approved by the City Council on March 15, 2000, per Resolution No. 2000-1714. The approved tentative tract map includes offsite improvements for the north-south connector to the future North Hills Parkway, and for the southerly half and easterly extension of "C" Street to Gabbert Road. The easterly extension of "C" Street would serve as interim access to the project until a railroad underpass and linkage to Los Angeles Avenue are constructed. Following completion of this linkage to Los Angeles Avenue, the "C" Street connection to Gabbert Road would be for emergency access only. Portions of the offsite improvements are within the Southern California Edison property.

On June 7, 2004, the City Council approved the selection of a consultant to prepare a preliminary design report for North Hills Parkway from Los Angeles Avenue on the west to the extension of Spring Road on the east. The preliminary report will address crossing of the railroad at the A/B Properties/Southern California Edison properties. With the approved and proposed projects along the proposed alignment, there may likely be enough properties to fund, through an assessment district or other financial mechanism, the full construction of North Hills Parkway from Spring Road west to Los Angeles Avenue.

The City also entered into a Development Agreement with A-B Properties for the adjacent 34.5 acre property. Review of the agreement with A-B Properties is included in a separate agenda report. Southern California Edison Company personnel have indicated that they intend to cooperate with A-B Properties on the development and improvement requirements for the sites.

Developer Compliance with Terms of Their Respective Agreement

Southern California Edison Company's development responsibilities are included in Section 6 of the Development Agreement. 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.	Southern California Edison Company has not submitted specific development proposals beyond the General Plan Amendment and Zone Change.
2.	Dedicated lands to be free and clear of liens and encumbrances, including off-site property required for street extensions or improvements.	The developers will provide clear title to any property required for dedications.
3.	Payment of Park Improvement Fee of twenty-five cents (\$.25) per square foot of gross floor area.	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 permits. No building permits have been issued to date.
4.	Payment of "Development Fees" of twenty-one thousand dollars (\$21,000) per acre of each lot on which the building is located.	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 permits. No building permits have been issued to date.
5.	Payment of "Citywide Traffic Fees" of eighteen thousand dollars (\$18,000) per acre of each lot on which the building is located.	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 permits. No building permits have been issued to date.
6.	Payment of all outstanding city processing and environmental processing costs.	The Annual Review Applications and \$2,000 deposits for each Development Agreement - Annual Reviews were paid.
7.	Agreement to payment of "Air Quality Fee" to be calculated by the City as a condition on each subsequent approval.	Compliance with this requirement must be met prior to building permit issuance. No building permits have been issued to date.

NO.	REQUIREMENT	STATUS
8.	Agreement to cast affirmative vote for the formation of an assessment district with the power to levy assessments for the maintenance of parkway landscaping, street lighting (upon Council request - parks conferring special benefits).	To date, SCE is in compliance with this requirement.
9.	Agreement to pay all City capital improvement, development and processing fees.	Compliance with this requirement must be met prior to building permit issuance. No building permits have been issued to date.
10.	Provide irrevocable offer of dedication to the City for the rights-of-way for the future east/west arterial (formerly 118 bypass) along the entire length of the west side of the property outside of the easements for the Gabbert Channel. (SCE)	These requirements must be complied with prior to City Council action on subsequent approvals or grading, whichever occurs first.
11.	Agreement to provide grading of right-of-way for the future east/west arterial (formerly 118 bypass).	This requirement must be complied with prior to subdivision or any new use of the property.
12.	Agreement to comply with all provisions of the Hillside Management Ordinance.	This requirement will be included as a part of any grading plan approved for the property.
13.	Payment of pro-rata share of funding and construction of improvements identified in Gabbert and Walnut Canyon Channels Deficiency Study, and acknowledgement that interim improvements may also be necessary.	This requirement must be met as part of the issuance of a grading permit. No grading permit has been issued to date.
14.	Agreement to acquire and construct dedicated public access to the properties with secondary access in compliance with public safety requirements.	This requirement must be complied with prior to subdivision or any new use of the property.
15.	Agreement to not oppose creation of a Redevelopment Project Area, encompassing any part of the property.	To date, SCE is in compliance with this requirement.
16.	Agreement not to request any concession, waiver, modification or reduction of any fee, regulation, requirement, policy or standard condition for any subsequent approval, and agreement to pay all fees imposed by the City for future buildings.	To date, SCE is in compliance with this requirement.
17.	Execute and record a covenant concerning restriction of uses to be permitted in the rezoned property, consistent with Exhibit B of the Development Agreement.	The covenant was executed and recorded as a part of the recorded Development Agreement.

NO.	REQUIREMENT	STATUS
18.	Agreement to submit improvement plans for Gabbert Road from the Union Pacific/Gabbert Road rail crossing to a point approximately one hundred twenty-five (125) feet north of the rail crossing, including surety to guarantee improvement.	This improvement is to be constructed prior to issuance of a building permit for any portion of the property in excess of forty percent (40%) of the total acreage for all lots created by the first Final Map. To date no plans have been submitted.
19.	Provide traffic study to determine signalization requirements for the Gabbert Road/Poindexter Avenue intersection. The traffic study is required prior to the first subsequent approval for the project. Developer may be conditioned to construct or pay a fair share for the traffic signal.	Construction of the traffic signal, if required, shall be at the same time as the Gabbert Road improvements.
20.	Construct thirty-two (32) foot wide paved access road to serve as primary access until such time as improvements per Section 6.22 (6.21 SCE) are constructed. The paved access road to become emergency access only upon opening of said improvements to the public.	To date no plans have been submitted.
21.	Construct street improvements extending north from Los Angeles Avenue (SR 118) to a point approximately six hundred (600) feet north of the railroad tracks, including an underground crossing of the Union Pacific railroad tracks prior to issuance of a building permit for any portion of the property in excess of seventy per cent (70%) of the total acreage for all lots created by the first Final Map. Final improvement plans and an improvement financing plan must be approved prior to issuance of a building permit for any portion of the property in excess of forty per cent (40%) of the total acreage for all lots created by the first Final Map.	This requirement must be met as part of the site development.

City Compliance with Terms of Agreement

The City's responsibilities are included in Section 7 of both agreement and include four (4) specific provisions, as summarized below.

#	REQUIREMENT	STATUS
1.	Expedite (to the extent possible) the processing of plan checking and related processing.	To date no plans have been submitted.
2.	Exempt this project from payment of the Gabbert Road/Casey Road Area of Contribution (AOC) fees.	No further action necessary.
3.	Commence proceedings to form a Mello-Roos Community Facilities District, upon receipt of landowner's petition and payment of fee.	To date no petition or fee payment has been submitted.
4.	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.	To date no such request has been submitted.

Evaluation of Good Faith Compliance

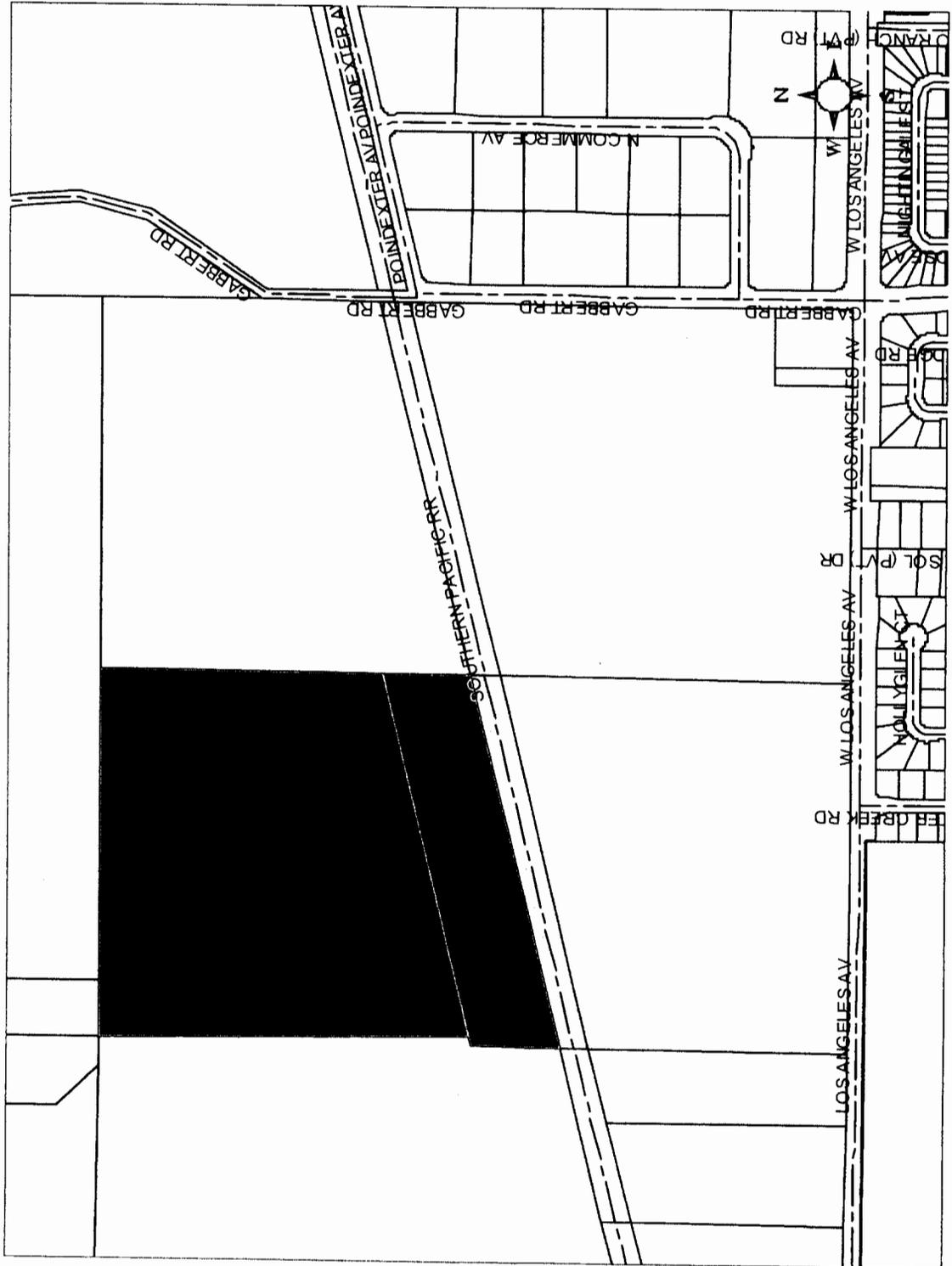
Based on a review of the Development Agreement Annual Review Application and the status of the project, the Community Development Director has determined on the basis of substantial evidence that Southern California Edison Company has, to date, complied in good faith with the terms and conditions of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

STAFF RECOMMENDATION:

1. Accept the Community Development Director's Report and recommendation, and find, on the basis of substantial evidence, that Southern California Edison Company has complied in good faith with the terms and conditions of their respective agreement with the City; and
2. Deem the annual review process complete for Southern California Edison Company's Development Agreement.

Attachments:

1. Location Map
2. Tentative Tract Map
3. Status of Development Agreement Statement from Development Planning Services on behalf of Southern California Edison



LOCATION MAP

CC ATTACHMENT 1

↑
NORTH

000211

STATUS OF DEVELOPMENT AGREEMENT (GPA 97-2)

Over the past twelve months, there has been no substantial change occur in the status of GPA 97-2, the Southern California Edison parcel west of Gabbert Road and north of the Union Pacific Railroad tracks. The intent is for this site to develop in conjunction with the development of the A-B Properties tract map located adjacent to the north of the SCE parcel. A combination of market conditions, design issues and physical site constraints have precluded development to date.

It is the intent of SCE to fully cooperate in the improvement and development of this site in the near future. SCE requests that the Development Agreement remain in effect with the same terms and conditions upon payment of the annual review fees and action by the City of Moorpark