

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

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

DATE: December 22, 2008 (CC Meeting of 1/07/2009)

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 (PA 1-7) and KB Home (PA 8-9)

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 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 2007 annual review was completed on January 16, 2008. Pardee Homes is successor in title and current developer of Planning Areas 1 through 7 of Specific Plan No. 2, which includes 322 single-family residential units, 102 multi-family residential units, the open space areas, school property

and public park. Although KB Home has purchased and intends to develop 132 single-family residences within Planning Areas 8 and 9, Pardee Homes has retained responsibility for requirements of the Development Agreement, and has therefore 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 following aspects of Specific Plan No. 2 were completed since the last Development Agreement Annual review:

- Planning Area 1, Magnolia Lane has 95 units constructed with all sold and occupied except for two of the three original model home units which are in the process of being converted back to for sale units.
- Planning Area 4, Shenandoah has 78 units constructed and occupied.
- All underground utilities have been constructed. All of the project's public streets have been paved, and the final "lift" of asphalt has been completed.
- The connection of Spring Road to Walnut Canyon Road, including operational traffic signals and the final "lift" of asphalt, opened February, 2008.
- All storm drain and utility construction has been completed, and final street grades have been established and paved in PA 8 and 9.
- The off-site Spring Road wall plans were approved by City Council and staff and Pardee acquired rights-of-entry from property owners, and completed construction of the wall and associated landscaping. The City accepted the maintenance responsibility of the landscaping in February, 2008.

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

- Planning Area 3, Cherry Hill has 59 units constructed and occupied.
- Construction of the 3-unit model complex of PA 5, Waverly Place, the 102 unit multi-family portion of the project, has been completed. PA 5 will have a total of 25 affordable units, for buyers who meet the criteria for low and very low income. Permits have been issued for 24 multi-family buildings, which will contain a total of 72 units and final occupancies have been issued for all units including 17 affordable units.
- Park improvements in PA 7 have been approved by the City Council and are currently underway and staff is monitoring construction.

- KB Home constructed their model home complex which includes three model homes, a parking area and a sales trailer, but has now closed the model complex and is not selling homes.

Developer Compliance with Terms of Agreement

The developer's responsibilities are included in Section 6 of the Development Agreement and include 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 th grade.	An agreement with Moorpark Unified School District was reached on November 18, 2005. MUSD has indicated it is no longer interested in acquiring the site. This action has required further discussions by Pardee, MUSD and the City.
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 were reviewed for compliance with this requirement prior to recordation.
4.	Payment of "Development Fees" of seven thousand three hundred dollars (\$7,300.00) per residential unit and thirty two thousand eight hundred dollars (\$32,800.00) per gross acre of institutional land.	These fees are 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 all Zoning Clearances for Building Permits which have been issued to date. Cost indexing commenced 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 (\$4,000.00) per residential unit and eighteen thousand dollars (\$18,000.00) per acre of institutional land.	These fees are 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 has been paid for all Zoning Clearances for Building Permits which have been issued to date.

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 are 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 all Zoning Clearances for Building Permits which have been issued to date.
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 th dwelling unit. Prior to occupancy of the 500 th residential unit, the developer shall also submit a cash deposit of \$350,000.00 to fund replacement of park amenities. The park has been rough graded and improvement plans were approved by City Council and staff is monitoring construction.
10.	Construct public streets adjacent to school and park sites.	Street improvements have been constructed, except for final pavement layer and bringing manhole covers to grade. Spring Road was completed February, 2008.
11.	Construct appropriately sized water line, pumping facilities, and storage facilities for recycled water.	At the present time, no connection points exist, or are planned within the vicinity of the project.
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, -3, -4 and -5, which have been recorded. Final Maps for Tract No. 5045-6 through 8 have also been approved by City Council and recorded. The trails were 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.

NO.	REQUIREMENT	STATUS
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>A Purchase and Sale Agreement in lieu of an Affordable Housing Agreement has been signed.</p> <p>Construction of units in PA 5, the multi-family portion of the project, which contains the affordable component of the project has commenced.</p>
14. Cont.	<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 (\$5,000.00) 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 (\$3,580.00) per unit (for each of the dwelling units in the project).</p>	<p>The \$5,000.00 payment has been received.</p> <p>The Payment In-Lieu Fees are 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.</p> <p>The In-Lieu fee has been paid for all Zoning Clearances for Building Permits which have been issued to date.</p>
15.	<p>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.</p>	<p>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 all Zoning Clearances for Building Permit which have been issued to date.</p>
16.	<p>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.</p>	<p>The plans have been approved by staff and construction was completed in March, 2008.</p>
17.	<p>Submit and gain approval from City Council of a plan to guarantee the agreements contained in Section 6.</p>	<p>An Implementation Plan was approved by City Council on April 20, 2005. Pardee Homes has retained responsibility for the items under the plan, except for construction of the residential units in Planning Areas 8 and 9.</p>
18.	<p>Install traffic signals as determined by the City.</p>	<p>Design of five (5) traffic signals were included in a City contract, but paid for by Pardee. All five (5) traffic signals, as approved and permitted by the City, were constructed by Pardee and four became fully operational in February, 2008. The one internal traffic signal which is installed and not yet operational is at the intersection of Elk Run Loop and Ridgcrest Drive.</p>

NO.	REQUIREMENT	STATUS
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.	To date, the developer has complied with this requirement.
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 have been included in the CC&Rs prepared for the project. The CC&Rs were reviewed and approved by the City Attorney and staff prior to final recordation of the CC&Rs.
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. Final design of access improvements are under review by staff.
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 noise study was completed using projected traffic counts for project build out and the study concluded that new sound walls would not be required. The Community Development Director concurred with the recommendations of the report, and determined that sound walls were not required.
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 were approved by City Council and staff and Pardee acquired rights-of-entry from property owners, and completed construction of the wall and associated landscaping. The City accepted the maintenance responsibility of the landscaping and wall in February, 2008.
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.

NO.	REQUIREMENT	STATUS
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 and street construction has been completed, including final pavement. Design plans for landscaping improvements at the southwest corner of Spring Road and Charles Street were approved by City Council and are currently being reviewed by staff.
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.
30.	Construct a public trail system as identified in the Specific Plan, including a cash deposit of one hundred fifty thousand dollars (\$150,000.00) to fund the maintenance of the trail system.	These improvements were required as part of Final Map review. All Final Maps have been approved by City Council, and recorded. The required \$150,000.00 maintenance deposit is due prior to occupancy of the 500 th 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 (\$125,000.00) 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.	The required contribution was paid on July 27, 2006 and deposited in the City Wide Traffic Mitigation Fund (2002).

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 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 were submitted.

NO.	REQUIREMENT	STATUS
2.	Commence proceedings to form a Mello-Roos Community Facilities District, upon receipt of a landowners' petition by Developer and Developer's payment of a fee, as prescribed in California Government Code Section 53318, City shall commence proceedings to form a Mello-Roos Community Facilities District, ("District") and to incur bonded indebtedness to finance all or portions of the public facilities infrastructure and services that are required by the Specific Plan and that may be provided pursuant to the Mello-Roos Community Facilities Act of 1982, (the "Act"); provided, however, the City Council, in its sole and unfettered discretion, may abandon establishment of the District upon the conclusion of the public hearing required by California Government Code Section 53321 and/or deem it unnecessary to incur bonded indebtedness at the conclusion of the hearing required by California Government Code section 53345. In the event that a District is formed, the special tax levied against any residential lot or residence thereon shall afford the buyer the option to prepay the special tax in full prior to the close of escrow on the initial sale of the developed lot by the builder of the residence.	A Community Facilities District has been approved by City Council.
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.	Per dedication of public open space area.
8.	Agreement to appoint an affordable housing staff person to oversee the implementation of the affordable housing requirements.	David Moe, Redevelopment Manager 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.

NO.	REQUIREMENT	STATUS
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 558 residential units resulting in an overpayment and there is currently a partial credit available toward the remaining institutional uses (which include the private pool lot recreation areas, and future school site; AOC fees were not required to be collected for the 7 acre public park site).
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.
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 Planning 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.

FISCAL IMPACT

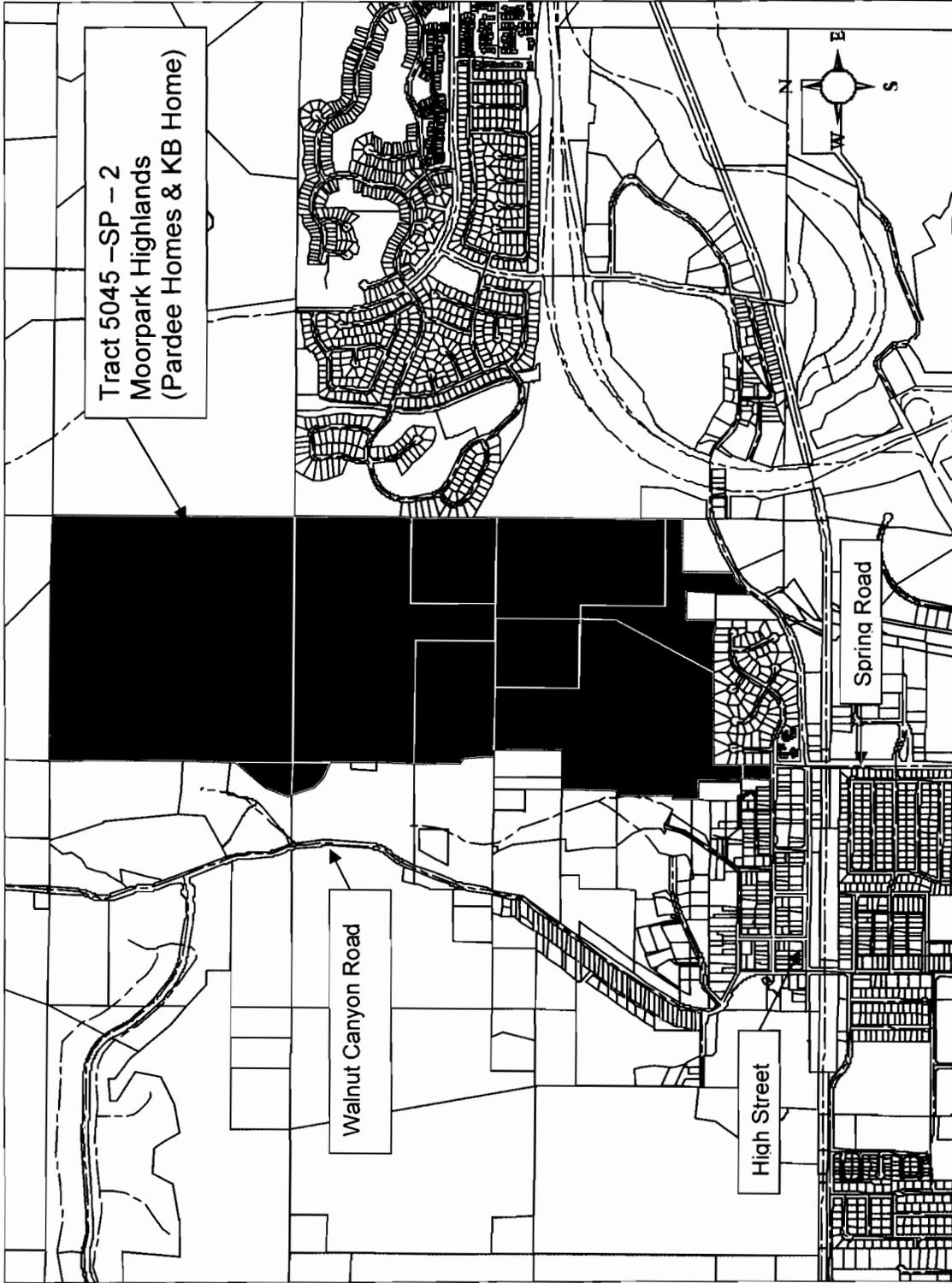
None.

STAFF RECOMMENDATION:

1. Accept the Planning 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.

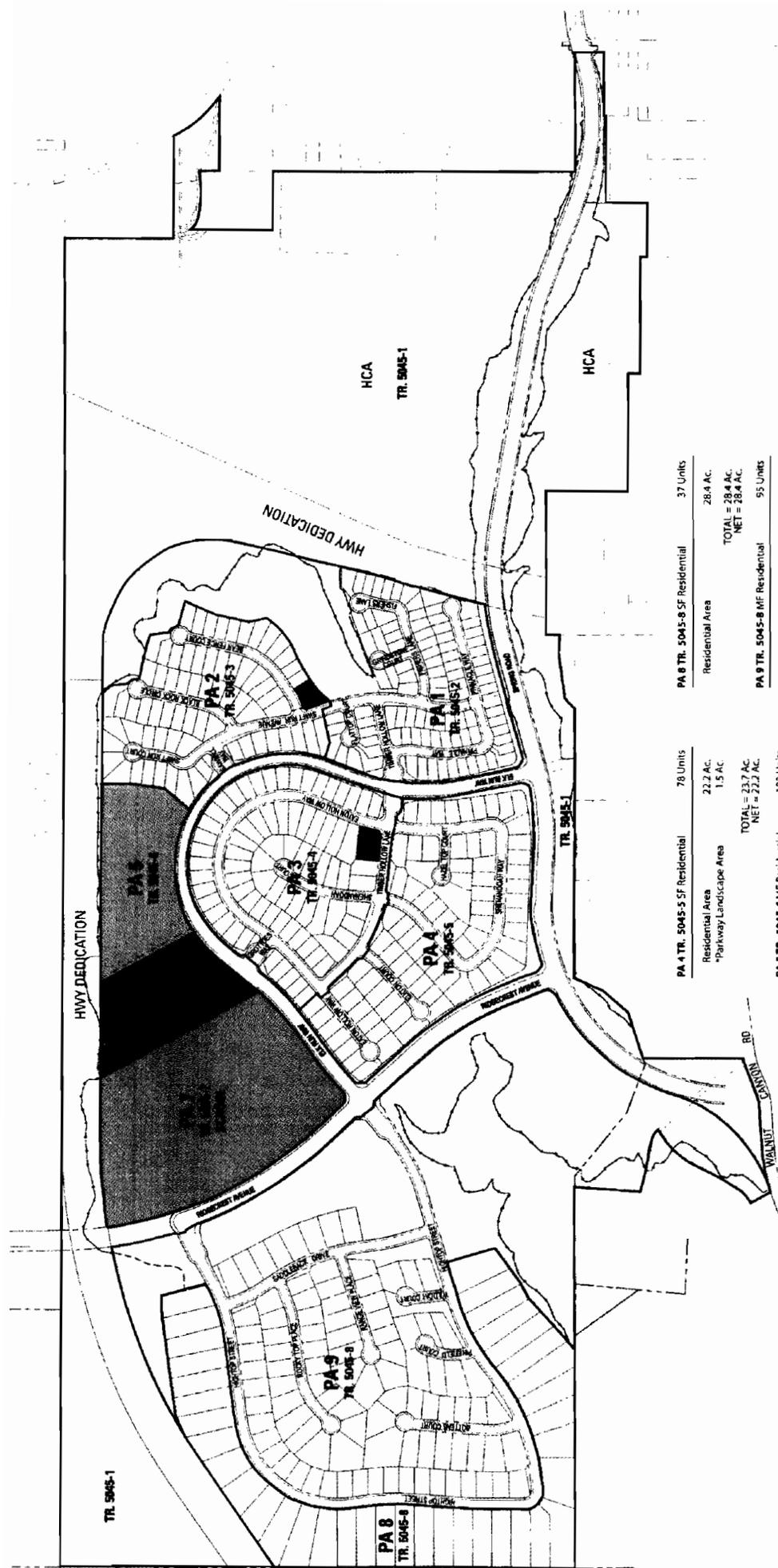
ATTACHMENTS

1. Location Map
2. Site Plan
3. Letter from Pardee Homes, dated November 5, 2008.



**LOCATION MAP
CC ATTACHMENT 1**

↑
NORTH



Tract / Area	Units	Residential Area	Recreation Area	Parkway Landscape Area	Other	TOTAL	NET
TR. 5045-1 MAJORS	0 Units	101.3 AC				101.3 AC	101.3 AC
*Habitat Conservation Area		47.1 AC				47.1 AC	
*Hwy Dedication		27.0 AC				27.0 AC	
*Private Open Space		27.0 AC				27.0 AC	
*Major Roads		7.1 AC				7.1 AC	
*Park Area (PA 6)		209.5 AC				209.5 AC	
		0 AC				0 AC	
PA 1 5045-2 SF Residential	95 Units	16.8 AC				16.8 AC	16.8 AC
Residential Area		14.1 AC				14.1 AC	
*Detention Basin		0.9 AC				0.9 AC	
*Parkway Landscape Area							
TOTAL		31.8 AC				31.8 AC	31.8 AC
NET		16.8 AC				16.8 AC	16.8 AC
TR. 5045-2 SF Residential	69 Units	17.4 AC				17.4 AC	17.4 AC
Residential Area		0.4 AC				0.4 AC	
*Recreation Area		0.3 AC				0.3 AC	
*Parkway Landscape Area							
TOTAL		18.1 AC				18.1 AC	18.1 AC
NET		17.4 AC				17.4 AC	17.4 AC
PA 2 TR. 5045-3 SF Residential	78 Units	22.2 AC				22.2 AC	22.2 AC
Residential Area		1.5 AC				1.5 AC	
*Parkway Landscape Area							
TOTAL		23.7 AC				23.7 AC	23.7 AC
NET		22.2 AC				22.2 AC	22.2 AC
PA 3 TR. 5045-4 SF Residential	76 Units	21.0 AC				21.0 AC	21.0 AC
Residential Area		0.5 AC				0.5 AC	
*Recreation Area		0.6 AC				0.6 AC	
*Parkway Landscape Area							
TOTAL		22.1 AC				22.1 AC	22.1 AC
NET		21.0 AC				21.0 AC	21.0 AC
PA 4 TR. 5045-5 SF Residential	78 Units	22.2 AC				22.2 AC	22.2 AC
Residential Area		1.5 AC				1.5 AC	
*Parkway Landscape Area							
TOTAL		23.7 AC				23.7 AC	23.7 AC
NET		22.2 AC				22.2 AC	22.2 AC
PA 5 TR. 5045-6 MF Residential	102 Units	8.5 AC				8.5 AC	8.5 AC
Residential Area							
TOTAL		8.5 AC				8.5 AC	8.5 AC
NET		8.5 AC				8.5 AC	8.5 AC
PA 6 PARK, SEE TR. 5045-1 MAJORS							
PA 7 TR. 5045-7 School	0 Units						
School Area		21.9 AC				21.9 AC	21.9 AC
TOTAL		21.9 AC				21.9 AC	21.9 AC
NET		21.9 AC				21.9 AC	21.9 AC
PA 8 TR. 5045-8 SF Residential	37 Units	28.4 AC				28.4 AC	28.4 AC
Residential Area							
TOTAL		28.4 AC				28.4 AC	28.4 AC
NET		28.4 AC				28.4 AC	28.4 AC
PA 9 TR. 5045-8 MF Residential	95 Units	46.3 AC				46.3 AC	46.3 AC
Residential Area		47.1 AC				47.1 AC	47.1 AC
*Open Space Area							
TOTAL		92.4 AC				92.4 AC	92.4 AC
NET		45.3 AC				45.3 AC	45.3 AC

SITE PLAN

CC ATTACHMENT 2

North Arrow
MOORPARK HIGHLANDS
 05-03-2005

NOTE:
 *Not Included in Net Areas



26650 The Old Road, Suite 110
Valencia, California 91381
Phone: (661) 222-3200
Fax: (661) 255-7837

RECEIVED

NOV 12 2008

CITY OF MOORPARK

JAMES C. BIZZELLE, III
Vice President, Community Development
Phone (661) 222-3200
Fax (661) 255-7837

November 5, 2008

Mr. Joe Vaca
Principal Planner
City of Moorpark
Community Development Department
799 Moorpark Avenue
Moorpark, CA 93012

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

Dear Joe,

Enclosed are the Application Form, and Fee for Pardee Home's Moorpark Highlands Annual Development Agreement Review. As you know the great majority of the project has been constructed. A status update is provided below:

- Tract 5045-2, Magnolia Lane, is complete and sold out.
- Tract 5045-3, Cherry Hill, is yet to be constructed and will use the model home existing complex in Tract 5045-4.
- Tract 5045-4, Cherry Hill; is complete and sold out, except for the Model Home Complex, and model build out totaling 10 lots.
- Tract 5045-5, Shenandoah, is complete and sold out.
- Tract 5045-6, Waverly Place; is over 50% sold, and the remainder 10 building out of 34 are under construction.
- Tracts 5045-8 were sold to KB Homes and are no longer under our ownership. They have built four model homes.
- The 7-acre park is approximately 40% constructed.

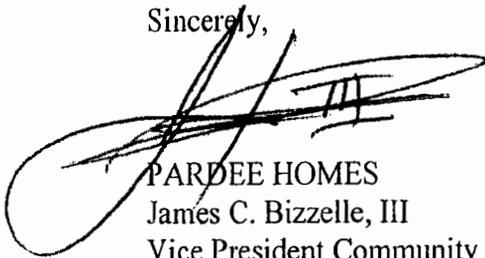
CC ATTACHMENT 3

000061

- The school district has preliminarily determined that a school may not be needed at this site.
- All roadway improvements, including traffic signals; are in place and the Spring Road connection to Walnut Canyon Road is complete.

As you can see significant progress has been made over the last twelve months toward implementing and completing the project. We feel that we are in good faith compliance with the Development Agreement and look forward to the successful completion of the project.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bizzelle, III', written over a large, stylized circular flourish.

PARDEE HOMES
James C. Bizzelle, III
Vice President Community Development