

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director 

DATE: January 25, 2010 (CC Meeting of 02-03-10)

SUBJECT: Consider Surety Bond Reduction (No. 104906729) for Tract Map No. 5147 – A-B Properties

BACKGROUND

A-B Properties Tract 5147 is a 34.71-acre industrial subdivision development project located approximately 1,300 feet west of Gabbert Road, and north of the Union Pacific Railroad. Tract No. 5147 consists of 17 industrial lots, 1 lot for a conservation easement, and 1 lot for landscaping purposes, (Attachment 1). The grading and improvement plans have been approved by the City and construction has commenced. Grading has been completed on 7 of the 17 lots with over-excavation and re-compaction completed on the remaining 10 lots. The project has been delayed due to litigation between A-B Properties and Southern California Edison (SCE) on access and service related issues including an eminent domain action by the City. It appears that a settlement agreement to resolve all related issues by the City, A-B Properties, SCE and Hitch Ranch will be finalized within a few weeks.

DISCUSSION

As required by the Development Agreement (DA) between the developer and the City, the developer has posted a bond per Section 6.22 of the DA for \$4,936,000.00 for the construction of the Union Pacific Railroad under-crossing. This under-crossing on North Hills Parkway (NHP) is on the westerly boundary of Tract 5147 to a point 600 feet north of the said railroad crossing. Financing of the NHP under-crossing will be in the form of an Assessment District with participation by A-B Properties and other benefiting properties, or other financing mechanism as approved by the City. The City recently hired KOA Corporation to prepare plans, specifications and cost estimate for the construction of NHP from 600 feet south of the railroad crossing to Gabbert Road, including the railroad under-crossing.

In the A-B Properties vs. SCE litigation, A-B Properties has agreed to enter into a settlement agreement with the City for modifications to the approved DA. A-B Properties has agreed in principle to pay for the design and construction of the NHP first phase, the paving of a 2-lane section of NHP between the Tract 5147 entrance at the northeast corner east to Gabbert Road.

The amended Development Agreement is currently being drafted and staff is recommending that the referenced bond be reduced at this time consistent with this report.

The \$4,936,000.00 Bond No.104906729 for the under-crossing as posted by A-B Properties is up for renewal. A-B Properties is requesting the subject bond be reduced to \$1,000,000. If A-B Properties fails to execute an amended Development Agreement by August 31, 2010, the City will require the reinstatement of the bond per the existing Development Agreement.

Staff is recommending that Surety Bond No. 104906729 be reduced to \$1,000,000. as follows:

<u>SURETY TYPE</u>	<u>BOND NUMBER</u>	<u>ORIGINAL BOND AMT.</u>	<u>PRIOR AUTHORIZED ACTION</u>	<u>AUTHORIZED ACTION OF 02/03/2010</u>
Cost of Construction for SR118 By-Pass	104906729	\$4,936,000.00	None	Reduction to \$1,000,000

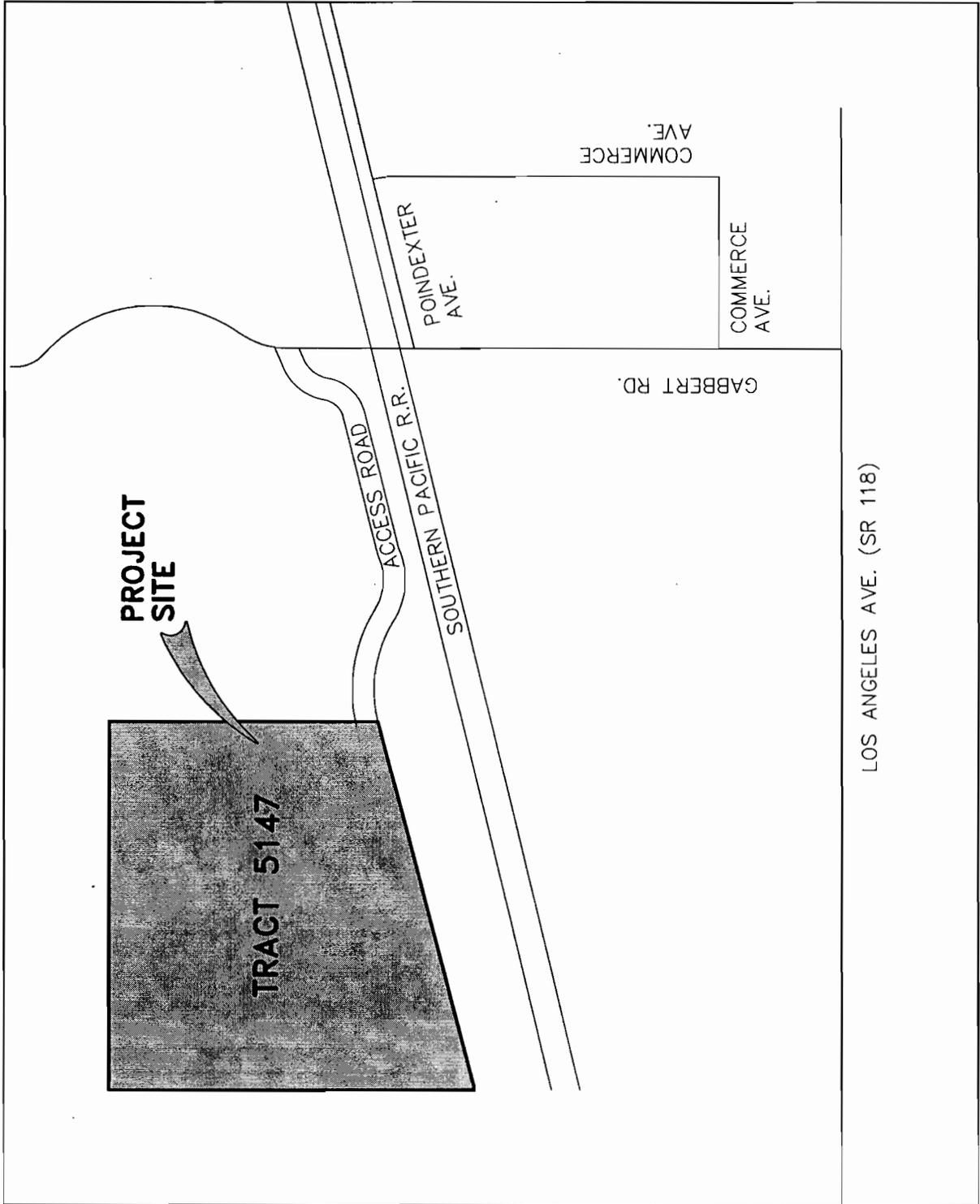
STAFF RECOMMENDATION

Authorize the City Clerk to reduce the Surety Bond No. 104906729 to \$1,000,000 for A-B Properties, Tract 5147 contingent on receipt of letter from A-B Properties agreeing to the points contained in this report.

ATTACHMENT

1 – Vicinity Map

ATTACHMENT 1



N.T.S.

VICINITY MAP

TRACT No. 5147